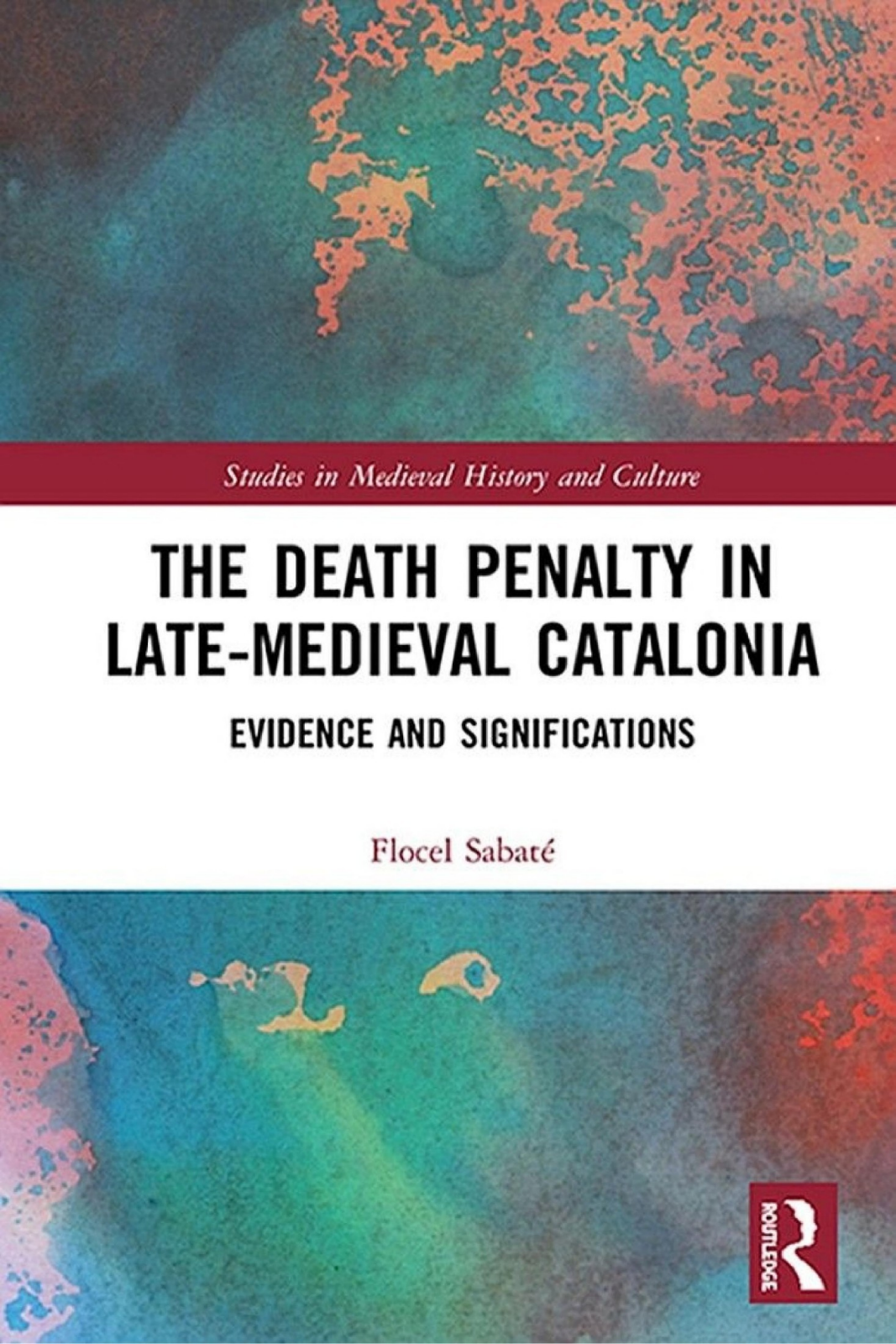




Studies in Medieval History and Culture

THE DEATH PENALTY IN LATE-MEDIEVAL CATALONIA

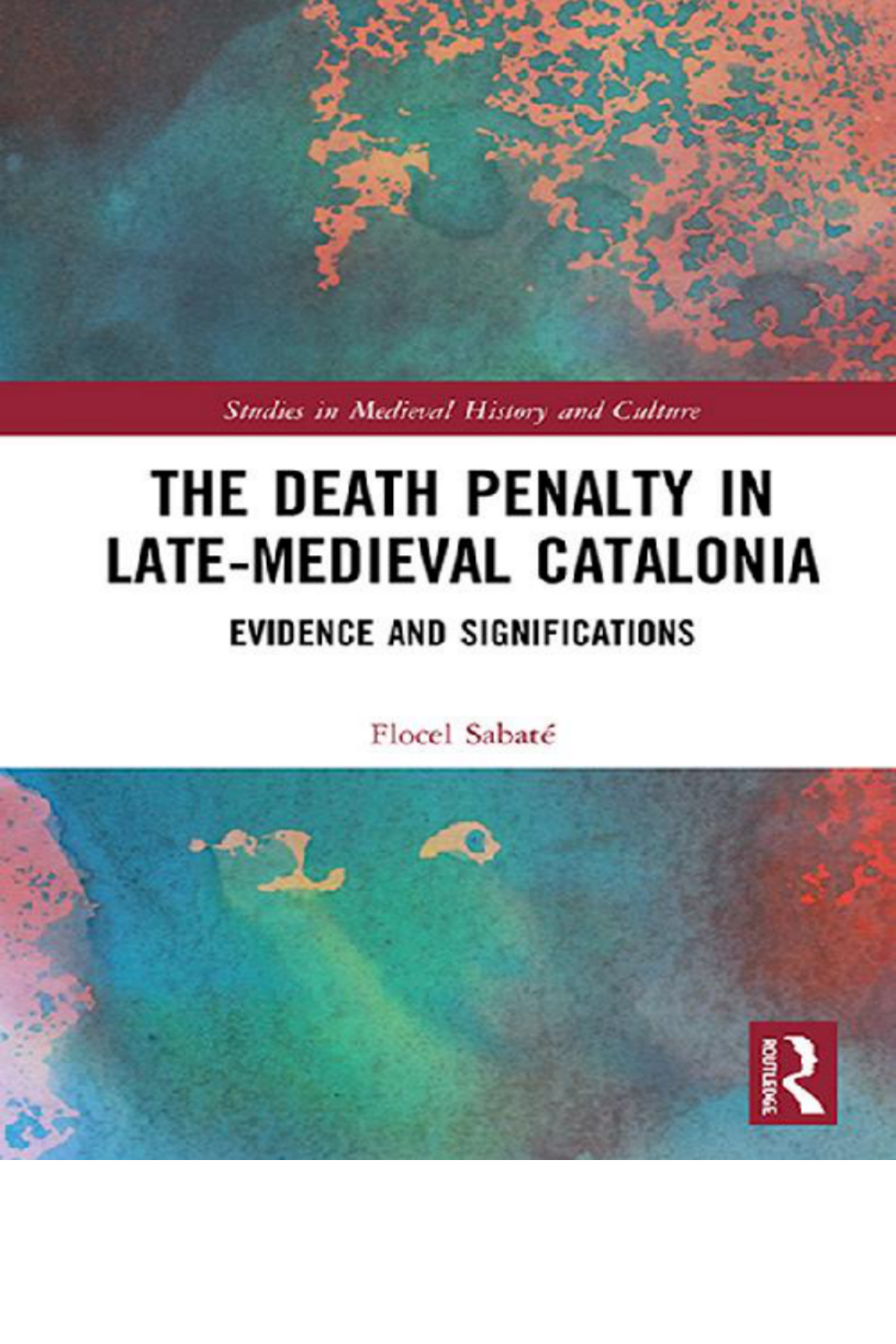
EVIDENCE AND SIGNIFICATIONS

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THE DEATH PENALTY IN LATE-MEDIEVAL CATALONIA

EVIDENCE AND SIGNIFICATIONS

Flocel Sabaté



The Death Penalty in Late-Medieval Catalonia

The death penalty was unusual in medieval Europe until the twelfth century. From that moment on, it became a key instrument of rule in European society, and we can study it in the case of Catalonia through its rich and varied unpublished documentation. The death penalty was justified by Roman Law; accepted by Theology and Philosophy for the Common Good; and used by rulers as an instrument for social intimidation. The application of the death penalty followed a regular trial, and the status of the individual dictated the method of execution, reserving the fire for the worst crimes, as the Inquisition applied against the so-called heretics. The executions were public, and the authorities and the people shared the common goal of restoring the will of God which had been broken by the executed person. The death penalty took an important place in the core of the medieval mind: people included executions in the jokes and popular narratives while the gallows filled the landscape fitting the jurisdictional limits and, also, showing rotten corpses to assert that the best way to rule and order the society is by terror.

This book utilises previously unpublished archival sources to present a unique study on the death penalty in Late-Medieval Europe.

Flocel Sabaté is Professor of Medieval History at the University of Lleida, Spain and Doctor Honoris Causa of the Universidad Nacional de Cuyo, Argentina. He is director of the journal *Imago Temporis Medium Aevum* and president of the Association of the Historians of the Crown of Aragon. He has served as a guest professor in universities and research centres such as Concepción, ENS (Lyon), JSPS (Tokyo), Lisboa, Mexico, Paris-1, Poitiers, and Yale.

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Frontispiece image: Detail of the altarpiece devoted to Saint Catherine showing the martyrdom on the pyre of her colleagues. Master of Glorieta, Tarragona school, from the church of Mas de Bondia, currently in the Episcopal Museum of Vic, MEV 1051-1052.

The Death Penalty in Late-Medieval Catalonia

Evidence and Significations

Flocel Sabaté

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Presentation and acknowledgements

Genealogy of this book

This book, revised, extended and updated in 2018, is based on the seminars that Professor Gabrielle Spiegle was kind enough to invite me to give in Johns Hopkins University in Baltimore in November 2008 under the title *The death penalty in Late-Medieval Catalonia. Reality and significations*. In line with the format of these seminars, my interventions led to very enriching debates among my fellow historians there, whom I thank very effusively, especially Rita Costa Gomes (Towson University), Richard Kagan (Johns Hopkins University) and Katherine Ludwig Jansen (The Catholic University of America), as well as the above-mentioned Gabrielle Spiegle.

With this aim, the first draft was written some months before in New Haven, where I was residing as a guest professor invited by the Council on Latin American and Iberian Studies at the Whitney and Betty MacMillan Center for International and Area Studies at Yale University. I must express my most sincere thanks to Professor Paul H. Freedman not only for his warm welcome to Yale but also, here very specifically, because he was the first to read the hundred and seventy pages of the first draft of this book and generously to make rich handwritten suggestions on the text and which I still keep in one of the black and gilded folders we used in Yale University.

However, it must be mentioned that, shortly before this, in November 2006, Iñaki Bazán, lecturer at the Universidad del País Vasco, had organised the congress *La pena de muerte en la sociedad europea medieval* in Durango (Spain) and was kind enough to invite me to give the talk *La pena de muerte en la Cataluña medieval*. This led to the first publication on the subject, in an extensive article of mine under the same title that appeared the following year in volume 4 of the journal *Clio & Crimen*, which shows part of the structure and essential traits which form the basis of this book.

At the same time, this work was supported by the research into the investigations undertaken by different officers and judicial process against crime in late-medieval Catalonia that, although still unpublished, I wrote in Paris during the 2004–2005 course. This was thanks to the invitation from Professor Jean-Philippe Genet to join the Laboratoire de Médiévisistique Occidentale de Paris in the Université Paris I Panthéon-Sorbonne as a guest professor and, specifically for

what concerns us here, to the encouragement of Professor Claude Gauvard, who was kind enough to propose that I give the seminar *Rechercher et s'informer sur le crime en Catalogne au XIV^e siècle* in May 2005 in the same university.

The central nucleus of the book was later enriched thanks to the inquiries centred on the instruments of punishment and their varied significance. In January 2014, Martine Charageat enabled this reflection by organising a congress in the Université Bordeaux 3 Michel de Montaigne specifically focussed on the gallows —*Les fourches patibulaires du Moyen Âge à l'époque Moderne*—, to which I was invited to speak about *Les fourches patibulaires en Catalogne au Bas moyen Âge*. This text, together with the scientific meeting, were later published in a specialised online journal (*Criminocorpus. Revue Hypermédia. Histoire de la Justice, des crimes et es peines* <<http://criminocorpus.revues.org/3062>>).

I continued my research into the polysemy of the gallows, which was an instrument of aggression against the body of the condemned as well as a symbol of jurisdiction in a scenario of fragmented power like medieval Catalonia and, at the same time, transmitter of terror by a political power because those in high places tried to strengthen their position through the intimidation of the gallows to enter a pact stronger. I presented my conclusions about this specific research, which have remained unpublished, in two South American scenarios: the *III Concilium Medii Aevi. Diálogos de la Sociedad Chilena de Estudios Medievales* held in September 2014 in the Universidad del Bío Bío in Chillán, where I had the honour to give the closing address thanks to the invitation from the director of the meeting, Professor Luis Rojas Donat; and the seminar *El taller del historiador. El abordaje de fuentes medievales* at the Universidad Nacional de Mar de Plata in April 2015, invited by Professor Gerardo Rodríguez. In the former, I centred the analysis on aggression against the body through the talk *La aplicación de la pena de muerte en la Cataluña bajomedieval*, while I used the latter to discern, through the analysis of the documentary sources, the path between justice, jurisdiction and power that the gallows established, with the theme *Justicia, horcas y pena de muerte en la Corona de Aragón*.

This line of research continued by focussing on the body of the condemned, as presented in the Université de Bordeaux Montaigne in December 2016 with my paper on *Le corps du condamné et la punition physique dans la pratique judiciaire*, again thanks to the invitation from Martine Charageat, which, on this occasion included my participation in the congress *Corps en peine. Manipulations, usages et traitements des corps dans la pratique pénale depuis le Moyen Âge*. From these congresses arose a forthcoming publication, in which, on request by

the organisers of the colloquy, I centred my contribution on the figure of the executioner under the title *Le bourreau en Catalogne au Bas Moyen Âge*. That facilitated the incorporation of the bulk of the research into the treatment of the bodies of the condemned into this book.

Finally, between 2016 and 2019 I have been leading the research project “Feelings, Emotion and Expressivity (12th-15th centuries)” (HAR2016-75028-P), funded by the Spanish Ministry of Economy, Industry and Competitiveness, which is in charge of scientific research in Spain. Working on this project, I was better able to perceive the role of the death penalty among the strategies used by those in charge of power over the people through emotiveness, which developed a specific link between expressivity and power.

Thanks to these various stimulæ, I have been reflecting on research that goes way back. It was in the penultimate decade of the twentieth century when I had just graduated in medieval history at the Universitat de Barcelona, that Professor Antoni Riera suggested that I focus my doctoral thesis on the study of aggressiveness in medieval Catalonia, an absolutely unexplored subject in Spain, in which the Medieval studies were dominated by other very different foci. This challenge obliged me to be attentive to the European bibliography, especially French, which had been opening this path and, especially, delve into the very rich and effectively unattainable Catalan documentation on the processal field. I then realised however that the significance of the violent expressions and the application of repression on a society could not be evaluated with rigour without adequate prior knowledge of its institutional setting.

Consequently, on completing my PhD in the same University of Barcelona in 1993, the analysis had focussed especially on the study of the institution of the royal jurisdictional officials, the jurisdictional demarcations through which the application of justice was organised territorially, and the balances of power between the different estates, a question of vital importance in the application of justice in a country with jurisdictions so heavily fragmented as those of Catalonia at that time. Only after this basic work had been done, could we move on to evaluate with due rigour the significance of breaking the law and the punishment this involved. However, at the same time, that can lead the historian to an apparent dispersion, given the different aspects involved and especially because the range of sources available in Catalonia is very extensive. Accordingly, on these pages I must thank the Fundació ICREA, because by granting me the ICREA-Academia award for the five-year period 2016–2020, I can focus my labour as Professor of Medieval History at the University of Lleida on research and devote specific attention to a part of such extensive and varied

themes involved. Thus I hope to enjoy enough time to contribute the conclusive reflections on research which has been ongoing for many years and, this way, has enabled us to throw new light on our knowledge of medieval society.

So, these lines serve to thank all those who have helped me in the various aspects involved in this long path, with a special very sincere mention for the colleagues I have listed above, all of whom have become true friends precisely through our shared passion for the research into the roots of our society.

Finally, I would like to express my gratitude to Chris Boswell, who has taken care of the linguistic correction of the book; to my assistant Isaac Lampurlanés, who has read the whole text looking for any formal mistakes and has helped me in the preparation of the index; and the people from the publishing teams (both Taylor & Francis and Swales & Willis), who have taken this book with care, striving to have a well-written and beautiful book.

Abbreviations

ACA	Arxiu de la Corona d'Aragó (Barcelona)
ACA C	Arxiu de la Corona d'Aragó, Cancelleria (Barcelona)
ACA MR	Arxiu de la Corona d'Aragó, Reial Patrimoni, Mestre Racional (Barcelona)
ACAC	Arxiu Comarcal de l'Alt Camp (Valls)
ACAN	Arxiu Comarcal de l'Anoia (Igualada)
ACB	Arxiu Capitular de Barcelona
ACBC	Arxiu Comarcal del Baix Camp (Reus)
ACBEB	Arxiu Comarcal del Baix Ebre (Tortosa)
ACBG	Arxiu Comarcal del Bages (Manresa)
ACCE	Arxiu Comarcal de la Cerdanya (Puigcerdà)
ACF	Arxiu de la Cúria Fumada (Vic)
ACGAX	Arxiu Comarcal de la Garrotxa (Olot)
ACP	Archives Comunales de Perpignan
ACPJ	Arxiu Comarcal del Pallars Jussà (Tremp)
ACSG	Arxiu Històric Comarcal de la Segarra (Cervera)
ACUR	Arxiu Comarcal de l'Urgell (Tàrrrega)
ACV	Arxiu del Castell de Vilassar de Dalt
ACVOC	Arxiu Comarcal del Vallès Occidental (Terrassa)
ADB	Arxiu Diocesà de Barcelona
ADG	Arxiu Diocesà de Girona
ADPO	Archives Départementales des Pyrénées-Orientales (Perpignan)
AHCB	Arxiu Històric de la Ciutat de Barcelona
AHCB ABVB	Arxiu Històric de la Ciutat de Barcelona
AHCG	Arxiu del Batlle i el Veguer de Barcelona
AHFF	Arxiu Històric de la Ciutat de Girona
AHMTM	Arxiu Històric Fidel Fita (Arenys de Mar)
AHMY	Arxiu Històric Municipal de Torroella de Montgrí
AHMV	Arxiu Històric Municipal de Vic
AHN	Archivo Histórico Nacional (Madrid)
AHPB	Arxiu Històric de Protocols de Barcelona (Barcelona)
AHT	Arxiu Històric de Tarragona
AMC	Arxiu Municipal de Camprodon
AML	Arxiu Municipal de Lleida
AMLM	Arxiu Municipal de Lloret de Mar
AMP	Archives Municipales de Pamiers
AMSJA	Arxiu del Monestir de Sant Joan de les Abadesses

ANC	Arxiu Nacional de Catalunya (Sant Cugat del Vallès)
ASM	Arxiu de la Seu de Manresa
AVV	Arxiu del Veguer de Vic
BC	Biblioteca de Catalunya
BML	Bibliothèque Municipale de Lyon
MMM	Moulins Mediathèque Municipale

1 Introduction

The death penalty in the so-called Old Regime meant the use of jurisdictional and legislative power to decide whether subjects should live or die. That was apparently far from arbitrary because the system acted under a set of appearances of normality: in a regulated manner, in accordance with the legislation, with the intervention of the judge and under the authority of the holder of the jurisdiction, the procedure aimed to penalise an infraction and repair the social damage inflicted because, given the medieval mind-set, humans were understood as part of a collective.¹ Then, as or more importantly, the whole was situated within the cosmic plot configured by the order, social and physical, desired by God, which had to be repaired accordingly, especially if divine wrath against those who tolerated evil was to be avoided.² This is why the population assumed the application of the death penalty as a veritable public spectacle. They accepted its moralising aspect and, in doing so, interiorised the gradation of the seriousness of the crimes dictated by those who presented themselves as holders of power and others as regulators of thought.

The sovereign became the warrantor of this order. Accordingly, the superior lord of the members of society had supreme power over their lives: “in eis habet imperium generalis jurisdictionis et potestatis”.³ So, talking about the death penalty is to speak about power. In other words, this was a society under an authority that regulated and assumed the duty to apply justice. In fact, if there were lords in the world it was because they fulfilled two basic functions over their subjects: to defend them and apply justice to them, the only reason that justified them receiving their incomes and taxes. This was affirmed in the Catalan town of Valls in 1357: “This is the reason why there are lords over the cities, towns and castles, and they receive incomes, because they defend their subjects and apply justice against the miscreants”.⁴ At the same time, under this authority, the deployment of the Romanist formulae of Common Law supplied new guaranteeist and apparently objective formulae to the application of justice.⁵ Thus, in second place, speaking about the death penalty is to talk about legal regulation, of a society with well-structured

institutions, among which was the administration of justice. In any case, the assessment of the events and forms of actuation were applied in line with the Christian doctrine, which, with its malleability, served to guide behaviour and the formulae with which the society was structured and interpreted.⁶ In third place, speaking about the death penalty consequently led to analysing the code of very specific values shared by the people to justify the social order, including wide consequences for the understanding and articulation of society.

It is very suitable to analyse this medieval reality in a very specific spatial framework, like Catalonia, given the range of nuances it provides. Late-medieval Catalonia enjoyed its own full institutional structure within what we know as the Crown of Aragon,⁷ a sum of territories each of which had its own strong internal cohesion, reflected in their government structures. Due to this, the set of territories only shared some economic and social links and, institutionally, little more than the sovereign and his closest administrative circles.⁸

In this scenario, the sovereign's efforts to consolidate his pre-eminence over the then so-called Principality of Catalonia clashed with a legacy that enormously limited him in his two bases of power: jurisdiction and taxation. Certainly, the country's origins were not homogeneous, which conditioned its structure. Its birth dated back to the separation of the counties in the north-east of the Iberian Peninsula from the Carolingian lands in the ninth century, thus establishing a nucleus of autonomous counties. These spread westwards and southwards in the tenth century under the leadership of barons and high churchmen by occupying the strip of land that acted as the frontier with Al-Andalus. This was followed in the eleventh century by military action by various feudal lords who occupied the Muslim territory. The counties thus extended maintained strong social and economic relations, which is why by the twelfth century, they were perceived externally as a specific unit under the name of Catalonia. Nevertheless, the pre-eminence the count of Barcelona exercised at that time did not overcome the jurisdictional and taxational fragmentation inherent in the original setup, not even when he won the title of king thanks to his marriage to the heiress to the neighbouring Kingdom of Aragon that same century. At the end of the twelfth century, Catalonia was well-united and defined institutionally, under a sovereign who was king of Aragon and count of Barcelona but who lacked real power and the ability to raise taxes in a large part of Catalonia.⁹ The king's efforts to reinforce his position in the thirteenth century through adding other territories further south in the Peninsula—Valencia—and opening to the Mediterranean—with the incorporation of the Balearic Isles—failed because the benefits

from these economic and territorial expansions were not only for the sovereign but for all social groups.¹⁰ Definitively, in the Parliament or *Corts* of 1283, in the context of the strong tension following the incorporation of Sicily into the Crown of Aragon, the king promised to respect for ever more the jurisdictional power of the lords who enjoyed full domain, without either the royal tax collectors or legal officials being able even to enter the majority of the country's territory.¹¹

In this scenario, firstly although briefly, we must see how justice penalised the crimes considered serious during the Early Middle Ages to appreciate the change of procedure imposed from the twelfth century through the spread of Roman law.¹² This led to the development of the Romanist procedural system, with guarantees that had to be applied by a set of well-trained jurists under the authority of the holder of the jurisdiction. Specifying the items fitted into the different levels of application of justice belonging to each lord meant arranging the rights of the various holders of power. This made sense in a society where power could only be agreed in its different areas, which is why the system of government has been accurately defined as a “mixed constitution”¹³ or *souveraineté partagée*.¹⁴ From Montesquieu's perspective in the eighteenth century, it could seem close to the absurd to have a system that gave “to several people different kinds of lordship over the same thing or on the same persons”.¹⁵ However, from a medieval perspective, this disquisition supplied a great social clarification, because clarifying the rights of the owner (“direct domain”) and those from the perpetual tenant (“useful domain”) over the same asset an order was achieved for the feudal society. Thanks to these kinds of arrangement, this could address all its items between *feodum* and *alodium* or between *mixtum* and *merum imperium*.¹⁶ Thus, there could be various lords with rights over the same territory and the same subjects, each of whom had his rights recognised, and only he who had a higher position would enjoy the supreme *merum imperium*, with a higher power that cannot be better illustrated than through the power to decide over the life and death of his subjects. The death penalty went far beyond the simple punctual repression of crime and became the visualisation of higher power, of the sovereignty inherent to the holder of the *merum imperium*.

The strengthening of royal power by the European monarchies in the thirteenth century¹⁷ invoked the Romanist arguments to consolidate the “general jurisdiction that there is in his kingdom, because he has the *merum imperium* over all the people of his kingdom”, in the words of the Catalan jurist Pere Albert.¹⁸ However, this theoretical reasoning could not be materialised in a scenario of

agreed power like the medieval one if the monarch lacked enough real vigour to impose himself and this weakness showed up clearly when he lacked jurisdiction and income. The political challenges of the fourteenth century obliged the monarch to resort repeatedly to credit in exchange for ceding taxes and especially, jurisdiction. The king was unable to consolidate state taxation around himself,¹⁹ and the jurisdictional fragmentation reached paroxysm in Catalonia: in 1392, the king only held jurisdiction over 13.43% of the territory and 22.17% of the people.²⁰ Most of the land was not a sum of large baronies but rather a mosaic of minor jurisdictions, which did not collaborate with each other, precisely to show their full jurisdictional and judicial power.²¹ There was no better indicator of that power than the gallows. If one was travelling a path and saw gallows on a hill above the road, someone was displaying his power to apply the capital punishment in the place you were approaching.

Thus, the late-medieval Catalan landscape was dominated by a series of gallows that accompanied the jurisdictional mosaic. The gibbet as a symbol opened itself to a broad semiotic that the respective authorities guarded.²² Firstly, it is the case of the gallows placed right in the middle of the town square thanks to which all the population could participate in the cruel ceremony of immolation of the culprit in order to recover the lost social order. Similarly, the scaffold that, on a high and easily visible point, would display as long as possible the remains of the bodies of those who dared offend, battered by the elements and animals. A different symbol was demonstrated by the empty gallows, sometimes with the timbers a bit rotten but still intact enough to show off the full jurisdictional capacity of the lord of that place. Finally, in a similar way, another kind of symbology was displayed by the gallows garnished with adequate stonework protection which also displayed the coat of arms of the city alternating with those of the crown, as in the case of Barcelona, to make it clear who, in reality, guided the royal jurisdiction.

The gallows visualised a jurisdictional capacity, and thus belonged to the holder of jurisdiction in any of the estates. Very varied strategies arose around the invocation and application of the maximum punishment: the *plenitudo potestas* that the sovereign aimed for, the practical denial of this through the application of the death penalty by any of the possessors of the full jurisdiction, whether knights, nobles, churchmen or burghers, and even the normative capacity of the large cities, that also claimed the right to capital punishment.

In all cases, the holders of the jurisdiction designated judicial officials who had to apply the Romanist procedural system, but with

some adaptations to the local and regional realities. Thus the death penalty was pronounced by judges who invoked the professionalism inherent in their training and position. However, the sentence did not only reflect a determined legislation and its treatment through the procedural system but rather, became a very notable portrait of the values of society, for the gradation of the consideration of the crime, the assessment of this according to who the victim was and especially, the treatment offered to the culprit according to his or her social position. In the end, it was protecting a determined social order, where everyone occupied their corresponding position.

The application of the punishment became the great social catalyser. In the first place because it facilitated and encouraged the necessary popular participation through which the fractured order and relationships with God were recomposed. Secondly, because the application of the punishment exposed the guilty party to the mockery and ignominy that he deserved according to the seriousness of his offence, although always respecting the order he or she occupied in society: an unprivileged person was hung, but a baron or noble would have his throat cut, while the Jew would suffer abuse until the last moment, hung upside down by the feet.

Thanks to the abundant documentation conserved in certain places in Catalonia, we can calculate the rates of application of capital punishment. This was more frequent in urban areas than in rural settings and more common in the second half of the fourteenth century than in the early part of the century. In any case, it always reflected the resort to the death penalty by the authorities in tense social situations.

Beyond the uses and applications of the death penalty, the landscape was built on the basis of capital punishment, through the gallows covering the land, the threats by the sovereign to apply it to contain a certain order or its presence in the legislation. Accordingly, capital punishment reached social presence much wider than its application. The literature, folklore and even the devotional stories were full of tales and accounts which contained hanged men, to the point that the moralist Eiximenis would have to warn that it was not very good taste to lead the conversation towards the subject whilst eating at table.²³

Thus, capital punishment confirms its transversal nature and, with that, it is offered as novel tool for contemplating late-medieval Catalan society from the breach of the norm, the fear of social rupture, the assumption of ideological guidance and, definitively, the relationship between power and society in the Late Middle Ages. It is a perspective that allows us to contemplate the official discourses and the normative rules and, so, gain veritable knowledge of what the men

and women in Catalonia thought, felt and experienced in the later medieval centuries.

The relationship between power and society were marked by specific forms of expressiveness. This fully affected a point of such strong social intensity as the death penalty, which means the real capacity of the person who holds power to decide about the life and death of fellow humans beings. The specific image of the country reached through this legal right and common practice became a model for government in the later centuries.

By being able to make use of the abundant documentation in Catalonia to take on this challenge, this book offers a true and precise portrait of a society that used the death penalty under the full conviction of its utility for the “punishment and correction of bad men”,²⁴ including the full backing of all the juridical, ethical and religious indicators of the time, as Thomas Aquinas specified: “*Medicus autem abscindit si per ipsum immineat corruptio corporis. Iuste igitur et absque peccato rector civitatis homines pestiferos occidit, ne pax civitatis turbetur*”.²⁵ Given all this, currently it becomes imperatively necessary to take advantage of this documentary wealth to delve into the numerous aspects that arise around the death penalty in late-medieval Catalonia.

Thus, the death penalty became a legacy from the Late Middle Ages justified by the social order reached. Capital punishment would have a deterrent effect on the population in a society where disruptive elements might themselves be socially excluded. In the modern era, the new basis of the thought underlining the individual²⁶ led to a new vision of community as a pact between individual and society, which has evolved to the present.²⁷ In the eighteenth century, these ideas allowed Cesare Beccaria to argue that the death penalty represented tension between the individual and the state. The reason is that, according to his interpretation, the death penalty must be seen as a hard aggression – a war – from the latter, identified with the nation, against the former because annihilating this one, the State or the Nation receives the benefits. Consequently, if this benefit can be refuted, the death penalty loses its sense:

“The death penalty is not a ‘right’, while I have proved that this cannot be; but it is a war of the nation with a citizen, because it considers the destruction of his being necessary or useful. But if I prove that this death is neither useful nor necessary, I will have won the cause of humanity”.²⁸

In the same period, Voltaire not only wrote ironically about the systems for applying the death penalty since the Middle Ages,²⁹ but also equated what was done in the name of justice with the violence this was aimed at repressing—“public punishments are as cruel as

private revenge”³⁰—to obtain very little effective correctional results. Also in the eighteenth century, Cabanis added, “I will especially bless our legislators, when they think they can abolish a sentence which I have always considered a great social crime, and which, in my opinion, never prevents any”.³¹ The apparent contradiction was evident for anyone in the nineteenth century, even outside a position adopted in favour or against this punishment: “religion says thou shall not kill and society raises scaffolds every day as a powerful remedy to avoid crimes that multiply frighteningly”, was displayed in 1850 in Barcelona in the Academy of Students of Medicine.³²

The ideas against death penalty (and torture) reached a legal recognition in 1786 in the Great Duchy of Tuscany through the famous code *Leopoldina*.³³ This can be the way, to change the law, as Charles Nodier warned in 1832: “we must not kill anyone. We must not kill those who kill. You must not kill the executioner! The laws of homicide, we must kill them!”³⁴ Indeed, these laws could be the real problem. Tolstoy concluded clearly that the application of the violence of the death penalty as a remedy for social ills generated the opposite effect:

the action of the government with its cruel means of repression, worn out on the state of our civilisation—such as prisons, the force, the guillotine, the death penalty—leads to barbarism from customs much more than its improvement. And, therefore, rather than decrease, the number of violent people increases.³⁵

Thus, the death penalty has been perceived by many authors since the nineteenth century as absolutely damaging for the condemned: it was out of proportion, randomly according to chance and fatally irreparable in case of error. At the same time, this measure never can correct the guilty, who always died (“It is necessary to educate the people, this is better than to kill them”³⁶). Without benefit for the individual, neither did society experience any positive reaction after watching the cruel application of the death penalty, it makes sense to avoid capital punishment.³⁷

That underlines the necessity to ask why throughout so many centuries, Western society shared everyday life with the death penalty. We should delve into a society that coexisted with the death penalty, which means that the men and women of the Middle Ages moved around in a landscape full of scaffolds from which rotting corpses sometimes hung. They went happily to witness the application of public torments like quarterings, amputations, burnings on the pyre or on the gibbet, and had even integrated this scenario into daily life in everyday conversations, either to joke about it or to praise the potent divine intercession.

Curiously, it is not as long ago as it may seem. Carles Rahola, a

Catalan intellectual executed by the dictator Francisco Franco in 1939, wrote in 1934 that it was little more than a hundred years, in 1829, that in his hometown of Girona, since a sentence of death by quartering was applied, continuing the medieval practice.³⁸ Bernard Shaw also appealed to the chronological life cycle to show the proximity of these practices and, what he perhaps wanted to emphasise, the enthusiasm with which the population took part:

I have mentioned that when I was already a grown man I saw Richard Wagner conduct two concerts, and that when Richard Wagner was a young man he saw and avoided a crowd of people hastening to see a soldier broken on the wheel by the more cruel of the two ways of carrying out that hideous method of execution. Also that the penalty of hanging, drawing, and quartering, unmentionable in its details, was abolished so recently that there are men living who have been sentenced to it.³⁹

Bernard Shaw died in 1950, and the author of these lines, if you allow me to continue with this play on life cycles, was born in the following decade, the 1960s. Everything is close. At the beginning of the twenty-first century, Jean-François Kahn noticed that the arguments used in the first serious debates for the abolition of death penalty in 1793, 1830 and 1848 were very similar to the current discussions.⁴⁰ Between 2007 and 2012, there were four resolutions in the General Assembly of the United Nations calling on the members to place a moratorium on the application of the death penalty, presenting its the abolition as a universal cause on a common horizon.⁴¹ However, the societies in some countries who we call western, like the United States of America, have very conflicting views on the death penalty. For example, picking up a newspaper at random in any city, we might have found the now defunct weekly magazine *Creative Loafing* of Atlanta, whose editorial of 29th September 2011 was titled “Raise death penalty standards”. This went on to talk about the ease with which popular juries had handed down death sentences in recent years induced by a paranoid fear of crime, thus assuming that measures of this type would cut delinquency, but leading however, to the reality of death sentences dictated on a very slim basis of evidence:

that the state can kill a person in the total absence of physical evidence (...) is unconscionable. Statistics show that in recent years, juries have grown increasingly unwilling to sentence people to death when a case is shaky. But many of the prisoners now coming up for execution were convicted decades ago, when high-crime paranoia was at its zenith and a larger majority of the population supported capital punishment.⁴²

The fears and decisions that are perceived between the lines of this

commentary from a twenty-first century North American publication are identical to those expressed in late-medieval Catalonia. In both cases, those who enjoy authority or sovereignty over society receive the acceptance or even popular collaboration to apply such forceful decisions as taking the lives of certain members of the social group. In the justificative discourse, widely accepted in many places, one can appreciate a benefit for the common good of the majority of the society, through guaranteeing the social order, although such benefits have never been verified. In contrast, what does benefit is a specific model of society in which power is exercised by those who prefer fear over reason and use wide margins of arbitrariness in detriment of the weakest members. Thus, in delving into the roots of capital punishment, this book is a work of research into a specific fragment of medieval Europe but is also offered as a very current point of reflection.

Notes

- 1 Flocel Sabaté, "Identities in the Move", *Identities on the Move*, Flocel Sabaté, ed., Peter Lang, Bern, 2014, pp. 14–22.
- 2 Flocel Sabaté, *Vivir y sentir en la Edad Media*, Anaya, Madrid, 2011, pp. 87–91.
- 3 Walter Ullmann, "The Development of the Medieval Idea of Sovereignty", *English Historical Review*, 64 (1949), p. 10.
- 4 "per ço són possats los senyors per les ciutats, per les viles e per los castells e ls són dades les rendes per tal que deffenen los lurs sotmesos e façen justícia als mals fayors". ACAC, parchments, num. 84.
- 5 "Elsewhere, however, the judge wanted to respect the common law (if necessary prescribed by the 'consilia', ie 'opinions' of the 'doctors'), seen ambiguously or as the right of the empire or como 'ratio scripta', 'written reason' (which stands for right: see the 'Palace of Reason' in Padua, where justice was administered) to indicate the right closest to perfection". ("Altrove, invece, si voleva che il giudice rispettasse il diritto comune (se del caso prescrittogli dal "consilia", cioè "pareri" dei "dottori"), visto ambiguamente o come diritto dell'impero o como "ratio scripta", "ragione scritta" (che sta per diritto: vedi il 'Palazzo della ragione' a Padova, dove si amministrava la giustizia) per indicarle il diritto più vicino allà perfezione. Mario Ascheri, *Lezioni di storia del diritto nel medioevo*, G. Giappichelli editore, Turin, 2007, p. 34.
- 6 "We can understand Christianity as the ideology that united European society during the Middle Ages. To do so, it showed a capacity to adapt to the evolution of the social and economic circumstances during the medieval millennium, combining with the diverse bases of thought and also adapting these to the corresponding social groups. Ideology gave a concrete sense to the memory and thus orientated the specific identity of medieval society." Flocel Sabaté, "Ideology in Middle Ages", *Ideology in Middle Ages*, Flocel Sabaté, ed., ARC-Humanities, Leeds, forthcoming.
- 7 Flocel Sabaté, "Territory, Power and Institutions in the Crown of Aragon", *The Crown of Aragon. A Singular Mediterranean Empire*, Flocel Sabaté ed., Brill,

- Leiden – Boston, 2017, pp. 172–200.
- 8 Flocel Sabaté, “Corona de Aragón”, *Historia de España. La época medieval: administracion y gobierno*, Pedro Andrés Porras, Eloisa Ramírez, Flocel Sabaté, eds., Istmo, Tres Cantos, 2003, pp. 345–414.
- 9 Flocel Sabaté, “Els primers temps: segle XII (1137–1213)”, *Història de la Corona d’Aragó*, Ernest Belenguier, ed., edicions 62, Barcelona, 2007, pp. 31–78.
- 10 Flocel Sabaté, “Poder i territori durant el regnat de Jaume I. Catalunya i Aragó”, *Jaume I. Commemoració del VII centenari del naixement de Jaume I*, Maria Teresa Ferrer, ed., Institut d’Estudis Catalans, Barcelona, 2011, vol. I, pp. 61–129.
- 11 José Luis Martín, “Pactismo político y consolidación señorial en Cataluña tras la conquista de Sicilia”, *Economía y Sociedad en los reinos hispánicos de la Baja Edad Media*, José Luis Martín, El Albir, Barcelona, 1983, vol. I, pp. 239–254.
- 12 André Gouron, “Un assaut en deux vagues: la diffusion du droit romain dans l’Europe du XIIIe siècle”, *El Dret Comú i Catalunya. Actes del Ier Simposi Internacional*, Aquilino Iglesia, ed., (Barcelona, 25–26 de maig de 1990), Fundació Noguera, Barcelona, 1991, pp. 47–63.
- 13 James M. Blythe, *Ideal government and the Mixed Constitution in the Middle Ages*, Princeton University Press, Princeton, 1992.
- 14 Diego Quagliani, “La souveraineté partagée au Moyen Âge”, *Le Gouvernement mixte. De l’idéal politique au monstre constitutionnel en Europe (XIIIe–XVIIe siècle)*, Marie Gaille-Nikodimov, ed., Publications de l’Université de Saint-Étienne, Saint-Étienne, 2005, pp. 15–24.
- 15 “à plusieurs personnes divers genres de seigneurie sur la même chose ou sur les mêmes personnes”. Montesquieu, *De l’esprit des lois*, book XXX, [chapter 1; <www.classiques.uqac.ca/classiques/Montesquieu/de_esprit_des_lois/partie_6/de_esprit_des_lois_6.html>](http://www.classiques.uqac.ca/classiques/Montesquieu/de_esprit_des_lois/partie_6/de_esprit_des_lois_6.html) Consulted: 1st May 2018.
- 16 Flocel Sabaté, “L’alleu dans la Catalogne médiévale (IXe–XIIIe siècle). Mythe et réalité”, *Alleu et alleutiers*, Nicolas Carrier, ed., Brepols, Turnhout, forthcoming.
- 17 Léopold Genicot, *Europa en el siglo XIII*, Editorial Labor, Barcelona, 1976, pp. 94–97.
- 18 “general jurisdicció que ha en son regne, cor en tots homes del regne seu a mer imperi”. Pere Albert, “Commemoracions”, *Usatges de Barcelona i Commemoracions de Pere Albert*, ed. Josep Rovira, Editorial Barcino, Barcelona, 1933, p. 183.
- 19 Manuel Sánchez, *El naixement de la fiscalitat d’Estat a Catalunya segles XII–XIV*, Eumo Editorial—Universitat de Girona, Vic—Girona, p. 1995, pp. 65–134.
- 20 Flocel Sabaté, “Discurs i estratègies del poder reial a Catalunya al segle XIV”, *Anuario de Estudios Medievales*, 25 (1995), p. 633.
- 21 Flocel Sabaté, “El veguer a Catalunya. Anàlisi del funcionament de la jurisdicció reial al segle XIV”, *Butlletí de la Societat Catalana d’Estudis Històrics*, 6 (1995), pp. 153–159.
- 22 Flocel Sabaté, “Les fourches patibulaires en Catalogne au bas Moyen Âge”, *Crimo-nocorpus. Revue d’Histoire de la justice, des crimes et des peines* [Dossier Les fourches patibulaires du Moyen Âge à l’Époque moderne. Approche interdisciplinaire], 2015 <<http://criminocorpus.revues.org/3062>>
- 23 Francesc Eiximenis, *Terç del Crestià*, cap. CCCLXXVI, (*Lo Crestià. Selecció*, ed. Albert Hauf, Edicions 62-La Caixa, Barcelona, 1983, p. 150).
- 24 “càstich e correcció de mals homens”. Pedro Ibarra, “Elig. Noticia de algunas Instituciones y costumbres de la Edad Media”, *III Congreso de Historia de la*

Corona de Aragón dedicado al período comprendido entre la muerte de Jaime I y la proclamación del Rey Don Fernando de Antequera (julio de 1923), Excma. Diputación Provincial de Valencia, Exmo. Ayuntamiento de Valencia, Valencia, 1928, vol. 2, p. 41.

- 25 Thomas Aquinas, *Suma Contra los Gentiles*, Biblioteca de Autores Cristianos, Madrid, 2007, p. 515 (Liber 3, cap. 146).
- 26 Alain de Libera, *Archéologie du sujet. II. La quête de l'identité*, Librairie Philosophique J. Vrin, Paris, 2008, pp. 31–119.
- 27 Josep Olives i Puig, “Del pactisme medieval al contractualisme modern”, *Finestrelles*, 6 (1994), pp. 205–239.
- 28 “Non è dunque la pena di morte un ‘diritto’, mentre ho dimostrato che tale essere non può; ma è una guerra della nazione con un cittadino, perchè giudica necessaria o utile la distruzione del suo essere. Ma se dimostrerò non essere la morte nè utile, nè necessaria, avrò vinto la causa dell’umanità”. Cesare Beccaria, *Dei delitti e delle pene*, Harlem, 1780, p. 75.
- 29 Voltaire, “Cándido o el optimismo”, *Cándido y otros cuentos*, Alianza editorial, Madrid, 1982, pp. 146–147.
- 30 “les punitions publiques sont aussi cruelles que les vengeances particulières”. Voltaire, *L’homme aux quarante écus*, without publisher or place of publication, 1768, p. 86.
- 31 “je bénirai surtout nos législateurs, quand ils croiront pouvoir abolir une peine que j’ai toujours considérée comme un grand crime social, et qui, suivant moi n’en prévient jamais aucun”. Pierre-Jean-Georges Cabanis, “Note sur le supplice de la guillotine, *Note sur le supplice de la guillotine. Suivie de l’Histoire d’Hélène Guillet*, Pierre-Jean—Georges Cabarus; Charles Nodier, À l’Orient, without place of publication, 2007, p. 64.
- 32 “la Religión dice no matarás y la sociedad levanta cadalsos todos los días como el remedio poderoso de evitar crímenes que se multiplican espantosamente”. Josep Maria Calbet, José Luis Ausín, *L’Acadèmia d’estudiants de Medicina (Barcelona, 1845–1850)*, Universitat de Barcelona, Barcelona, 2006, p.109.
- 33 Mario Da Passano, “La pena di morte nel Granducato di Toscana (1786–1860)”, *Materiali per a una storia della cultura giuridica*, 26/1 (1996), pp. 39–40.
- 34 “il ne faut tuer personne. Il ne faut pas tuer ceux qui tuent. Il ne faut pas tuer le bourreau! Les lois d’homicide, il faut les tuer!” Charles Nodier, “Histoire d’Hélène Gillet”, *Note sur le supplice de la guillotine. Suivie de l’Histoire d’Hélène Guillet*, Pierre-Jean—Georges Cabarus; Charles Nodier, À l’Orient, without place of publication, 2007, p. 97.
- 35 “l’acció del govern amb els seus cruels mitjans de repressió, desfasats sobre l’estat de la nostra civilització—com ara les presons, la força, la guillotina, la pena de mort—, porta a la barbàrie des costums molt més que al seu millorament i, per tant, més que disminuir, el nombre de violents augmenta”. Lleó Tolstoi, *El Poder*, Edicions Camacuc, Tavernes Blanques, 2004, p. 36.
- 36 “il faut instruire les homes, cella vaudra mieux que de les tuer” *Médecine légale. Les aliénés devant les conseils de guerre et les assises, suivi des discours prononcés à l’assemblée constituante en faveur de l’abolition de la peine de mort*, Germer-Baillière libraire—Gustave Thorel libraire, Paris, 1850, p. 38.
- 37 *Médecine légale*, pp. 35–60.
- 38 Carles Rahola, *La pena de mort a Girona*, Rafael Dalmau editor, Barcelona, 1975, vol. 2, p. 8.
- 39 Bernard Shaw, *Saint Joan*, Penguin books, London, 1978 (first Edition: 1923), pp. 30–31.

- 40 Jean-François Kahn, *Les rebelles. Celles et ceux qui ont dit non*, Plon, Paris, 2001, pp. 156–161.
- 41 Mathieu Soula, “L’histoire de la peine de mort a-t-elle un sens?”, *La mort pénale*, Jean-Pierre Allinne, Mathieu Soula, eds., Presses Universitaires de Rennes, Rennes, 2015, p. 9.
- 42 Creative Loafing, “Raise Death Penalty Standards”, *Creative Loafing Atlanta*, 40/22 (September 29–5 October 2011), p. 11.

2 The preceding context

The early-medieval justice and major crimes

The Visigothic kingdom that stretched over the Iberian Peninsula and Septimania suddenly collapsed in the early eighth century because of the Muslim invasion, which stressed its social and political weaknesses.¹ With the Peninsula converted into Al-Andalus, some political entities organised themselves in the north outside the Muslim domains. In these, the Visigothic legislative code was maintained, as was the case of the territory in the north-east that came under the Carolingian orbit between the end of the eighth and beginning of the ninth centuries.² In fact, this code continued to be used in these northern territories throughout the Early and High Middle Ages,³ not to show any legitimism linked with the Visigothic past, but rather in a practical sense, as a useful and equitable text for settling conflicts and crimes, that also been sanctioned by the Church at the councils of Toledo.⁴ Clearly, the strong pressures behind the development of the feudal system in the eleventh century⁵ maintained an everyday state based on the legal framework established by the *Liber*,⁶ and were reflected in judicial practice until the twelfth century.⁷

The *Liber* established public punishment, emphasising notions of shame and social example: “Iudex quociens occisurus est reum, non in secretis aut absconsis locis, sed in conventu publice exercent disciplinam”.⁸ The Visigothic code included the death penalty in cases considered exceptionally serious, such as treason against the king or kingdom,⁹ and murder, especially of close relatives,¹⁰ as well as the same punishment for judges who had imposed the death penalty unjustly.¹¹ Its aims were to reinforce the political cohesion of the kingdom, preserve the lineage and discourage extreme judicial abuses. At the same time, in accordance with these Visigothic laws, there was tendency to punish many cases, especially those of death by negligence, by financial compensation.¹²

The crisis of the Carolingian Empire in the ninth century led to the diverse north-eastern Iberian counties to be run independently under the different counts succeeded by their sons and taking the public patrimony as their own, especially after 877 and even more following the end of the Carolingian dynasty in 987. In this context, the society

that cohered socially and economically in the tenth century and that expanded over the frontier gradually adopting feudal forms in the eleventh, was very far from the circumstances that gave rise to the Visigothic legislative code. The maintenance of the *Liber* in this context showed its practical value, although at the same time, it continued to reflect and contribute to a specific cultural framework, assuming the code as one of the traits of regional identity.¹³ In fact, far from what the historiography had sometimes imagined, the legal framework inherited from the previous centuries was maintained, although somewhat outdated and repetitive. With the full deployment of feudalism in the eleventh century, the old *Liber Iudicos* or *Lex Gotorum* continued to be invoked to solve different everyday conflicts, although above all, the main scope was to deal with the real social tensions through mediation.¹⁴

In cases dealing with ordinary crimes committed in the tenth and eleventh centuries, this combination of the invocation of Visigothic law with the search for an adaptation to the contemporary reality can be seen. In all cases, the sentences, reached by the tribunals presided over by the counts or viscounts and with the participation of judges and *probi homines* or good men,¹⁵ imposed financial penalties, avoiding capital punishment even in crimes committed within the family. If the guilty party were unable to pay, he was ceded to the victim's family, as Sabida stated in 953 in reference to the “servo meo nomine Samuel qui mihi fui traditi in placito per manum saionis, ordinante iudices, pro ac causa unde ego eum petivi quo illi occissi filio meo innocente”.¹⁶ Capital punishment was not on the mental horizon of the members of these societies. The two parties involved in a trial for a criminal case accepted that the usual and normal punishment was financial, so that reducing the accused to slavery also naturally derived from his or her poverty. Thus, in the Osona county in 987, after being sentenced for killing his wife, Peter confessed: “me trado me medipsum quia non abeo aurum nec argentum nuc ulla substantia unde me possum redimere”.¹⁷ Most people who received these slaves did not hold on to them. Instead, they immediately put them up for sale, illustrating a general preference for financial redress over individual vengeance. Freeing condemned slaves became an act of Christian piety. In 933, Adalgis, being *presentis bonis hominis*, freed the slave Felix whom he owned through judicial sentence for having murdered his son. In exchange, Adalgis received 30 shillings from the presbyter Nectar, who said he did so for pious reasons for the benefit of his own soul: “ego Nectar presbiter sic eum redimo de mea rem propria propter Deum et remedium anime mee”.¹⁸

Disconnected from the French royal centre, the counties were acting with de-facto independence in the tenth century, which forced the

counts to try to reinforce their higher position in the counties they ruled over. In all these counties, magnates¹⁹ and emerging ecclesiastical hierarchies²⁰ controlled a large number of properties, while the viscount and *vicarial* families were consolidating prominent positions under the count they served.²¹ The strengthening of these lineages generated tensions over the ownership of assets, which led to great conflicts in the mid tenth century.²² The attempts by the viscount lineages to ameliorate and compensate their services with properties that the count considered his own led to accusations of treason, like that by the count of Cerdanya, Sunifredus II, regarding his Viscount Unifredus in Conflent: “*ipsa bauzia que nobis fecit in fisco*”.²³ In that case, in 952, the count approached King Louis IV of France, who sanctioned the seizure of the viscount’s assets.²⁴ So, Sunifredus II was able to have these assets, as he explained in 957 in a donation to the monastery of Ripoll, “*quod ego habui per donum Regis de Umfredo filio Guifredi qui mihi bozavit*”.²⁵ The people significantly involved in the same events, including those responsible for murders, lost their properties.²⁶ This is the reason why the assets available to Countess Ava in 962 were from “*pro hominibus qui homicidium fecerunt de meos homines*”.²⁷

During the same period, but geographically distant, in 974, another count, Unifredus II of Ribagorça, held the goods that belonged to “*Ramione traditore quia Judas qui Dominum tradidit rupham colorem abuit*”.²⁸ Ramió, called a traitor, held on to his properties until his death (*in die obitus sui*), and the above-mentioned Viscount Unifredus of Conflent had also enjoyed his assets “*ante dies obitus sui*”.²⁹ Given this coincidence, nothing indicates that there was a ruling that deprived them of their life and property at the same time. Indeed, everything seems indicate that they did not survive the outbreak of tensions so that, in both cases, the confiscation of the assets of those considered traitors happened after their deaths.

In another revolt that broke out in 957, it was Count Guifredus II of Besalú³⁰ who lost his life. The assassin went into exile,³¹ while Count Sunifredus II of Cerdanya, the murdered count’s brother, re-imposed order. It is significant that the count consulted judges and doctors in law about what to do with the culprits, these being such nefarious people, and the summary of the sentence that has survived does not contain any actions against the people or the memory of the aggressors but rather is directed towards their assets, which had to fall into the hands of the holder of the jurisdiction:

Annunte igitur potestate divina frater supradicti principis meusque castrum quod supradicti transgressores prescripto principi subtraxerant conquisivit, et dum in eo cum suis subditis resideret iudicibus doctoribusque nostre legis consuluit quid ei de rebus tam

nefariis transgressoribus agere oporteret; at illi perspectis venerabilium patrum scriptis, dederunt sententiam ut evacuatis scriptis supradicta fraude confectis res omnes tam nephariorum transgressorum, ad ultimum in dominium supradicti principis deberent devenire et quidquid ex hiis rebus idem princeps elegerit facere, liberam haberet potestatem. Sicque factum est ut per instantiam iudicum auctoritatesque legum rebus prefatis idem princeps in suo reciperet dominio eas dum superstis extitit quiete tenuit.³²

Throughout the eleventh century, transactions with property from sentences for assassination continued. In the new scenario of feudal relationships that were established in the second half of this century,³³ it was sometimes the lords who ceded the ownership of lands due to murders committed by those loyal to them, as the viscount of Cardona did prior to 1093.³⁴ The growing importance of Christianity in the understanding of the social order and especially the emergence of the clergy in the discharge of justice³⁵ added penance as a punishment for serious crimes. In 997, Count Ermengol I of Urgell donated two villages to the cathedral see of Urgell to compensate for the penance of fifteen years that he had been given for a murder: “ego Ermengaudus comes supra scribtus dono ad domne mee Marie sancte Sedis supra scribta villa que vocant Archavel et Lart, pro remedium anime mee et pro penitencia quod recipi de homicidio XV.^{im} annos”.³⁶

The association of punishment with penance facilitated the transfer of seized assets to the Church. Thus, when the close family could not benefit from this, which happened when they were the guilty party, the cessions could benefit the Church, precisely from the sin inherent in the crime and the necessity to redeem oneself through donating assets to the Church. This was the case in 990, when the cathedral see of Barcelona inherited the possessions of Sindila and Maria, a couple found guilty of murdering their own daughter, in what was really a female infanticide,³⁷ which led to emphasising the references to sin and the fear of eternal condemnation in the document in which the spouses ceded their assets.³⁸

Equally, the progressive privatisation of public revenues made it easier for those with judicial power to benefit financially from this. An example from 1027 is the powerful Gombau de Besora³⁹ who sold property received “per placitum vel per emendacionem et iustitiam que fecimus de omicidium que fecit Galindo, filium Donatdei sacer”.⁴⁰ This measure was consistent with the progressive fragmentation of jurisdiction, so that the assets reverted to the jurisdictional lord. The culprit did not have to cede the ownership of his body, but was expelled from his natural surroundings. Therefore, in the county of Urgell, prior to 1041, an allodium of Arnau would have been ceded to

the count and he was expelled from the county as his sons explained later: “ipsum alaudem non fuit de matre nostra sed de patre nostro nomine Arnaldus, qui eum adquisivi per vocem parentorum suorum et postea amisit eum per homicidium quam fecit et fuit egestus de omnem terram Urgelli”.⁴¹

Penance and exile, with cession of goods became widely accepted from the beginning of the 1030s, as the appropriate punishment for such a serious crime as murder. The posture of the Church as the guarantor of the Peace and Truce at that time⁴² confirms the confusing mixture of punishment and penitence. In 1069, together with his wife and sons, Bernat Joan donated some vines to the cathedral of Urgell in expiation because he had committed murder during the period of the Truce of God and not being able to serve the punishment of exile which had been imposed on him by the tribunal presided over by the bishop: “ego Bernardus fui in peditus in causa homicide in treguam Domini et pro hac culpa, secundum canonice regule, a proprio meo episcopo fui deputatus in exilio, et quia ego Bernardus maria non possum transire”.⁴³

This punitive framework was maintained at all levels and in all social settings, even when the culprit and victim were from the higher levels of society. In the second half of the eleventh century, the counts of Barcelona had a very prominent position among the other counts, thanks to the advance over the frontier,⁴⁴ their influence over Occitania,⁴⁵ their access to the sea⁴⁶ and, in short, the prosperity of a territory that saw the increase in agricultural exploitation, commercial exchanges and growing urbanisation in centres, that included three episcopal sees: Vic, Girona and the increasingly important Barcelona.⁴⁷ In this context, there was no lack of tensions within the ruling family⁴⁸ and this resulted in the murder in 1071 of Countess Almodis of Barcelona by her stepson Pere Ramon, elder son of Count Ramon Berenguer I. The seriousness of the crime led to a harsh sentence from Pope Gregory VII, who specified that it had to be 24 years of penance, alternating between religious residence and prison, and following strict guidelines regarding food and penitential practices, ending, after two periods of twelve years, with exile in Jerusalem. The *Gesta Comitum Barcinonensium* narrated his death in Al-Andalus, adding that he was doing penance: “Petrus Raimundi, matrastram suam Adalmoim interfecit, unde et in Hispania sub poenitentia obiit sine prole”.⁴⁹ This could mean that, in reality, he fled to avoid the harshness of the punishment. In any case, the penalty imposed, despite being so detailed, did not include any suggestion of capital punishment but rather sought the redemption of the culprit, who God would return to the Church when he returned in peace to the earth of the Lord: “introitum ecclesie quousque ad terram suam

cum pace redeat”.⁵⁰

On the death of Ramon Berenguer I in 1076, the murdered countess' twin sons, Ramon Berenguer II and Berenguer Ramon II received the county inheritance jointly. Relations between them were so tense that in 1079, Pope Gregory VII again intervened, this time calling on the bishop of Girona to impose peace and truce between the two brothers.⁵¹ His intermediation was not enough, and in 1082 the former was killed by the latter, who has since been known as “the Fratricide”.⁵² A growing group of nobles opposed him, which led him to agree, in 1086, to recognise the inheritance rights of the son of the assassinated count, Ramon Berenguer III, who was still a minor. The same agreement accepted that his uncle continued to rule the county until he came of age.⁵³ Consequently, when the murdered brother's son reached the age of 14 in 1096, he received full power over the county.⁵⁴ The murderer appeared before a court presided over by the then most powerful sovereign in the Iberian Peninsula, Alfonso VI of Castile, who had taken advantage of the crisis in Barcelona to extend his influence over the eastern part of the peninsula.⁵⁵ Berenguer Ramon II attempted to demonstrate his innocence through a legal battle, but that ended up showing the contrary because he lost. According to the chronicle *Rivipullense II*, the count accused of murder had to exile himself as a pilgrim, and died shortly afterwards in Jerusalem: “Era MCXX, anno Domini MLXXXII. Raymundus comes Barchinone occisus est apud Perticam dolo fratris sui Berengarii Raymundi, qui postea Ultramare, effectus peregrinus, Gerusalimis obit”.⁵⁶

In short, it is clear that throughout the Early Middle Ages, the death penalty was not contemplated as a path to redress behaviour, intimidate society to ensure order or boost certain political or social attitudes. Other ways of punishment were found for rebellion, murder or magnicide. Initially, the loss of property—and of freedom in having to cede one's own body if one did not have enough assets—seems to have been a more effective measure against crime than the use of the death penalty. Christianity led by the influential Church justified it by assimilating crime and sin and, consequently, penalty and penitence or also cession of goods and alms, as Count Ermengol III of Urgell stated in 1034: “omnis homo qui se cognoscit multis criminibus esse faece fordidatum, pervigil debet esse qualiter per eleemosynam Christum possit placare”.⁵⁷ This religious perspective facilitated to include punishment by pilgrimages that could be equivalent to exile in places like the Holy Land with great significance as well as danger.

One way or another, there was no room for capital punishment. In contrast, there was a place for showing who held power through the application of the penalisation. The twin capacities to tax and

administer justice were the indicators of one's hold on power. Controlling judicial affairs meant enjoying the corresponding sovereignty, either fully or delegated. So the exercise of justice taken to its extreme, the power of life or death over one's subjects, became of vital importance in the context of the feudal society that arose in the northern Iberian Peninsula, a society characterised by the privatisation of power and fragmentation of jurisdiction.

Notes

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3 Sovereignty and the “merum imperium”

The aging Visigothic law had to be progressively updated with *usualia* to face new social and judicial challenges.¹ This culminated in the second half of the twelfth century, when the *legem consuetudinaria*² were defined as the *Usatges* of the county of Barcelona, as a collection of updated normative responses to deal with the real problems in feudal society. This new code underlined the power to decree justice over the land or society—“quia terra sine iustitia non potest vivere, ideo datur potestatibus iustitiam facere”³—, recognising the full capacity of the corresponding lords to apply justice: “sicut datur est eis iustitiam facere, sic limitum erit eis cui placuerit dimitttere et perdonare”.⁴ When applying justice, they had to dispense a wide range of graduated possibilities, which, in the case of necessity, culminated in the death penalty applied on the gallows:

Quia iustitiam facere de malefactoribus datum est solummodo potestatibus, scilicet de omicidis, e adulteris, de veneficis, de latronibus, de raptoribus, de bauzatoribus et de aliis hominibus, ut faciant eam de illis, sicut eis visum fuerit: truncare pedes et manus, trahere oculos, tenere captos in carcere longo tempore, ad ultimo vero, si opus fuerit, eorum corpora pendere.⁵

The code of the *Usatges* adopted the fragmentation of power that the feudal system favoured, demonstrated the new realities and included the juridical lines inherited from Roman law.⁶ Indeed, the twelfth century was a fruitful moment for generating new forms of government and social structure in Europe, thanks to the intersection of emerging powers, feudal strength, economic development and new ideas and values.⁷ Similarly, this was the moment when the different counties in the north-east of Iberian Peninsula were perceived as a social and cultural unity, keeping a common name, Catalonia,⁸ and accelerating cohesion through the consolidation of both feudal and urban development. The jurisdictional fragmentation was maintained despite the rise of the count of Barcelona over Catalonia, reinforced by his position as king of Aragon.⁹ In this context, the acceptance of Roman law provided the ideal framework for defining the new balances of power. This new legal doctrine provided the monarch,

nobles and municipalities with arguments to justify and consolidate their respective positions, while clearly defining the duality of domain over a single good, either the direct power and the useful domain of emphyteusis, or the *merum* and *mixtum imperium* in the jurisdiction. On this subject of vital importance, which tells us who sovereignty belonged to, the crucial aspect was the punishment of crime. Full and supreme authority corresponded to those empowered to judge crimes that carried the death penalty. Anyone with this power enjoyed the *merum imperium*, and could cede the *mixtum imperium*, that is the minor jurisdiction, without losing their supreme position. The approach meant the inclusion of the death penalty in the judicial exercise that, as we have seen, was not usual in the application of justice in the preceding centuries. In reality, all over Europe in the twelfth century, the same Romanist juridical principles promoted the reintroduction of the death penalty.¹⁰

These disquisitions adapted perfectly to the reality in the country. The sought-after pre-eminence over Catalonia achieved by the count of Barcelona was easier to describe than to define, which is why Alfonso the Chaste in 1173 did not mention a specific region but the extreme limits of the country to situate where his power was: “a Salsis usque ad Dertusam et Ilerdam cum finibus suis”.¹¹ It did not mean fiscal or jurisdictional power over the whole territory, with the sovereign’s attempts to obtain these ending in failure.¹² The king of Aragon and count of Barcelona did not have sufficient power to reverse the situation, which had its origins in the autonomy of the counties following the break-up of the Carolingian empire and the subsequent actions of particular baronial lineages on the frontier. Thus, the progressive social, economic, political and cultural convergence to the benefit of the Barcelona dynasty did not imply jurisdictional submission of wide domains throughout the territory.¹³

On this basis, the thirteenth century, and especially between the minority of James I (1214) and the Sicilian crisis (1283), turned into a long struggle between the monarchy and the nobility¹⁴ in the different local and regional scenarios, a struggle that revolved around claims for jurisdiction, identified with the possession of sovereignty and symbolised by the power to apply justice. The triumph of the nobles (really the estates taming the king) in the parliament or courts of 1283, meant that the king’s officials “non intrent amodo civitates, villas, castra seu civitatum villarum aut castrorum terminos vel alia quacumque eorum loca Catalonie que non sint nostra pro querimoniis, faticis, pignorationibus sive execucionibus faciendis aut alia quacumque occasione causa sui officii”.¹⁵ Until the end of the Old Regime, the country became a mosaic of impassable jurisdictions.¹⁶ Someone who offended in one place only needed to run to a

neighbouring district to obtain asylum and practical impunity,¹⁷ because the holders of the local jurisdiction usually refused to hand over the accused as this could be interpreted as acceptance of the superiority of the claiming jurisdiction.¹⁸ This legal reality adapted itself perfectly to a society that was very attentive to group solidarity¹⁹ in which what mattered more than the crime that the accused may have committed was his relation with those who protected or pursued him, or their relations with each other. That is why one could argue that it was aberrant for a lord to hand over someone sought by the justice for a crime that carried capital punishment if the accused had not offended him at any moment, as indicated in 1392: “it was inhuman to send to his death anyone who has not affronted us”.²⁰

In his desire to strengthen his own power at the end of the thirteenth century and beginning of the fourteenth, James II made efforts to increase the number of places under full royal jurisdiction and, to this end, began long legal discussions on numerous specific points.²¹ The Crown wished to have its superior jurisdiction recognised, limiting baronial capacity to the *mixtum imperium*, as happened at that time in emblematic domains such as the baronies of Portella²² or Scala Dei.²³ This was the practice taken up in La Ral, where the abbot of Sant Joan de les Abadesses, in his desire to retain his power in the royal demarcation,²⁴ stated that he participated in “all the jurisdiction of the said town and vicarage of La Ral and other places, excepting crimes to which death or mutilation belong”,²⁵ thus identifying the death penalty and mutilation as a higher jurisdiction reserved for the sovereign. This was the same approach applied in the other territories of the Crown of Aragon, as in Valencia, situating the limit *ex causis et negociis criminalibus* in the penalties of death and mutilation.²⁶

Knowledge of the division between the *merum et mixtum imperium*, capitalising the high and low jurisdiction, was not restricted to the field of the Roman-Justinian legal terminology,²⁷ but became widespread. In several places, the disquisition on the possession of the *merum* and *mixtum imperium* clearly lengthened negotiations about the full jurisdictional power the noble aspired to and the partial cession claimed by the monarch. The royal officials established this as obviously unjustified use by the lords every time that “murders and other damages are done”, as the vicar of Cervera did when complaining about the viscount of Cardona regarding jurisdiction in the village of Jorba, where “by force he wants to use in that place of *merum imperium* and wants to disturb the jurisdiction of his majesty the king” or about the count of Urgell, in reference to various places where “he uses *merum imperium* and does justice for damage done

outside the county in the places of our lord the king or in another vicarage of his majesty the king”.²⁸ The king’s 1305 order to his vicar in Cervera to intervene in Jorba for questions of the *merum imperium* that the lord considered his own²⁹ was only one of many similar cases. These led to many long disputes between the royal court and the count of Urgell about the jurisdiction on the southern edge of the county,³⁰ the count of Empúries about the southern fringe of his territories for the same reason,³¹ the viscount of Cardona concerning places like Coaner,³² or the Knights Hospitallers for places in the preceptory of Ulledecona.³³ The repetition of the problem opened various fronts between the same interlocutors, leading to the negotiations going into detail, as in the latter case, when the claims of royal jurisdiction clashed with the Knights Hospitallers, not only in Ulledecona, but also in Amposta.³⁴

The struggle for jurisdiction arose every time the judicial system had to respond to crimes. At the beginning of the fourteenth century, the vicar of Cervera complained that the lord of Queralt “tries to use the *merum imperium* in his places” and that the viscount of Cardona, Ramon Folch uses and tries to use in his places in the viscounty of Cardona and does the same in those places, either by purchase or another way, in which his majesty the king or his vicars had and must have *merum imperium* and full jurisdiction.³⁵

These were not just simple theoretical questions. In 1305, when a body was found in Conill de Segarra (“a man has been found dead and in a pool of water near the spring that is in the limits of Conill”) the royal official of the district, the vicar of Cervera, took control, only to find that the viscount of Cardona’s lieutenant in the Segarra had beaten him to it, alleging that his lord held the jurisdiction.³⁶ The events that sparked jurisdictional conflict were often specific crimes, solving them was secondary to clarifying the supreme authority to impose capital punishment, if necessary, before justice was done. Among many examples is one from Peratallada in 1305 after the murder of a man and two women of Jewish origin. This provoked a dispute between Bernat de Cruïlles, as the local lord, and the vicar of Girona following instructions from the monarch.³⁷ In Vicfred, after a murder in 1322, the dispute was between the power of the king, acting through his vicar in the district of Cervera, and the viscount of Cardona as the local lord,³⁸ and in Banyoles in 1334, the arrest of alleged criminals by the Benedictine abbot of Sant Esteve³⁹ revived long-held jurisdictional disputes.⁴⁰

Faced with these discrepancies, and lacking precise documentation with which to endorse the baronial pretensions, great importance was given to traditional practice, with the corresponding fear of, and interest in, setting precedents as a firm basis for later actions. At the

beginning of the fourteenth century, the vicar of Cervera, acting in the king's name, tried to stop the lord of Queralt from applying punishment capital. This was in vain, as the noble obtained a document of support from the king, and with explicit recognition of his right by the monarch, the noble imposed a death penalty, having a man hung on the gallows. This event triggered the weakening of the royal presence in the area because, from then on, the lord could allege a precedent in his favour in the use of the full jurisdiction, as the vicar stated and, immediately complained bitterly about: "Pere de Queralt immediately had the said man hung on the said gallows, and now says for that reason that he is in possession of the use of *merum imperium*".⁴¹ Really it was as the royal officer said, because in later jurisdictional conflicts, the lord of Queralt often mentioned precedent and traditional uses of their right.⁴²

The lack of a documentary basis led to conflicts invoking tradition and precedent, thus prolonging disputes, as in Anglesola⁴³ or Peratallada,⁴⁴ and often feeding new conflicts, such as around Espluga de Francolí.⁴⁵ In most cases, the solution meant going back to disinter practices contained in the archives of the territorial officials. Precedents in criminal material were used to back the conflicting positions. In 1315, in the dispute about the full jurisdiction in Montagut, the king ordered his vicar in Montblanc and Vilafranca del Penedés to find precedents in his court records.⁴⁶ A similar case occurred in 1329 in the dispute over the jurisdiction in the Cabrerès region. The king ordered his vicar in Osona to proceed "*ostendendis actis et processibus et aliis informationibus pro iure nostre facientibus*",⁴⁷ and in 1334, in the continuation of the aforementioned conflict with the Queralts about judicial administration in Santa Coloma, the sovereign ordered the vicar of Cervera to obtain the relevant arguments from the earlier practices.⁴⁸ In all these cases, summaries of the territorial precedents were drawn up by the corresponding vicar and sent to the royal court to be used in the jurisdictional disputes.⁴⁹

The assertive policy about the capacity for territorial intervention continued in the different reigns in the fourteenth century, accompanied by other actions to reclaim incomes, jurisdictions, domains and exclusive competences, including the articulation of commissions to analyse and reclaim the state of the royal fields throughout the territory.⁵⁰ Thus, King Alfonso the Benign argued about the *merum et mixtum imperium* in El Cabrerès, Bellera and the baronies belonging to the lords of Senesterra, Cartellà and Cruïlles, among others.⁵¹ In fact, there were divergences about the capacity to administer high justice in many places. A clear example was the dispute between the monarch and the bishop of Vic for Aiguafreda in

the mid-fourteenth century.⁵² Many conflicts stretched over a long time. Lord Ponç de Santa Pau had been in dispute with the Crown for thirteen years over the jurisdiction in Finestres when he presented the question as a grievance to the General Courts of Parliament gathered in 1350.⁵³

The measures to promote royal power were prolonged in a setting of heavy external and internal pressure, in contrast with the weakness of the Crown. Continuous negotiation and cession was imposed by the estates, who influenced the politics of the country, managing to limit and condition the monarch's power to decide.⁵⁴ The latter also failed in his attempts to articulate an effective fiscal policy.⁵⁵ The king was thus forced to seek extraordinary resources and this increased its dependence on the estates and pared down his own capacities through having to negotiate concessions to the courts and parliaments. It would also require credits under the formula of *carta de gràcia*, which meant ceding temporally to the offerers, either barons, bourgeoisie or churchmen, full power over various places in the country. Although formally these were pawned and returned to the Crown when the latter paid back the loan, the growing difficulties of the royal treasury show the limited possibilities of paying these back and led to an extreme situation. In 1392, John I's jurisdiction only covered 13.43% of the territory and 22.17% of the population.⁵⁶

At that time, in practice the king had known how to combine his discourse with reality. The Romanist legal reasoning enabled him to claim the pre-eminent position as the general and supreme prince,⁵⁷ derived from the full sovereignty that corresponded to him as king,⁵⁸ although he knew that this did not allow him to claim full powers for himself. Very clearly, in the parliament or courts held in Tarragona in 1370 the sovereign naturally admitted that the government of people was not exclusively in royal hands, but was a competence shared by diverse kinds of lord: "every king and every prince and every lord and every man whom it has been charged to rule people".⁵⁹ So, there were people of very diverse nature—nobles, barons, churchmen, burghers—who, for such varied reasons as inheritance, the purchase of jurisdiction or having made a loan with a *carta de gràcia* to the king, enjoyed full power in the government of people, including the discharge of justice in its maximum expression.

In truth, the country remained a mosaic of impenetrable jurisdictions that did not collaborate in the prosecution of crime, because the exercise of justice was the indicator of the supreme capacity and any cession before the reclamations from another jurisdiction would mean a precedent of dependence or subordination. Impunity given easily was a serious problem, because the socioeconomic regions were fragmented jurisdictionally. Thus, the

leaders of the regional centers, concerned with being the capital of the area that suited their particular interests, opposed a homogenising discourse, promoting—and conditioning—the district official.⁶⁰ The holders of jurisdiction and the urban leadership were thus the two contenders for the jurisdictional contents, both attempting to attract the monarch⁶¹ and shape their claims for judicial powers. Jurisdictional power meant having impassable judicial limits that were displayed in this tense context through the ostentation of the possession of the supreme right and gave a specific symbolic sense to the instrument with which the death penalty was applied.

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4 The symbology of the gallows

Jurisdiction and terror

The power to apply the death penalty showed who possessed full jurisdiction, and this came to be represented by the building of gallows. The high degree of fragmentation of jurisdiction in Catalonia led to a proliferation of gallows that took over the landscape to indicate when one changed jurisdiction, that is, to symbolise—and flaunt—who held this full jurisdictional power.¹ The type of punishment allowed exhibited the degree of jurisdictional domain held. Those who only enjoyed the *mixtum imperium*, that is, the power to punish minor offences, showed this with the *costell*² (the pillory) where physical punishment was applied. This was identical to other parts of the Iberian Peninsula, such as Castile,³ where each place had to attend to “the work of the pillory”.⁴ In contrast, he who enjoyed the full jurisdiction could flaunt “patibula, gallows, half gallows, costellos and bars”,⁵ as a clear “signa denotantia merum et mixtum imperium et omnimodam aliam iurisdictionem”,⁶ that is, “faciendo erigi et erigendo in dictis locis et quolibet eorum furchas, patibula, custellos, perticas et alia merum et mixtum imperium et signum et exequutionem denotancia et designancia”.⁷ What there really was were two things in different places: the scaffold denoted the jurisdiction and, at the same time, in the main square, the pillory was there to serve its function for punishment, like the example described in Vic, where a point of reference in the city was “the pillory in the Market Place”.⁸

With this desire for display, the gallows were put in prominent places,⁹ generally high up “in quadam sumitate sive tosal”¹⁰ beside main roads,¹¹ on the way to Tarragona in the case of Valls, for instance.¹² The many examples in current toponyms include *Puig de les Forques* (the hill of the gallows) in places as far apart as Alcover¹³ and Argelers.¹⁴ There is also the similar expression *Tossal de les Forques* in La Selva del Camp,¹⁵ or the more explicit *Tossal del Penjat* (Hill of the hanged man) in Lleida.¹⁶ These high places were ideal for placing gallows given their visibility. Given their height, these are nowadays ideal places for installing wind turbines, which leads to the anecdote that in modern Catalonia there are two wind farms with this place name: *Forques-I* and *Forques-II*.¹⁷ Another line of possible toponymic

reminiscence is the various place names around *Forcats*, that, for example have been incorporated into the town planning of Calella de Palafrugell (*Carrer dels Forcats* and in some moments *Passeig Els Forcats*) and above all in Barcelona around the well-known *Coll de Forcats*, indicating a very famous pathway in a strategic and prominent place close to the western gate of Barcelona.¹⁸ This is well documented as a reference point throughout history, as we can state in 1148¹⁹ or in 1573.²⁰ Nevertheless, a linguistic controversy can arise, because in medieval Catalan, and also in Spanish, “forcat” means, a man hung, from the verb “enforcar”—“fizo enforcar dos d’ellos” (“he ordered two of them to be hung”) as King John II explained in Spanish in 1469,²¹ which is why this place was traditionally related to the death penalty.²² However, it is also true that the early documentation of this name could derive from another meaning of the same word: a place where something is divided into two.²³

In any case, these were all strategic places at the edges of the municipalities, as in La Sènia and Les Salines on the limits of the municipality of Tortosa.²⁴ Given this prominence, the gallows often became a reference point for describing the land. The area that the Knights Hospitallers ceded emphyteutically to the Jewish community (*aljama*) in Lleida in 1383 for a cemetery was situated “ad rectam Cordam Gardenii” and, more specifically, “versus patibulum sive forques vocatas de la Palomera”.²⁵

The gallows became a permanent remembrance of jurisdictional rights. The monastery of Sant Pere de Rodes bought the village of Llança with its full jurisdiction from the count of Empúries in 1381. When a new count disputed these rights in 1540, the gallows erected a century and a half before supported the arguments of the monastery.²⁶ Given this symbolic purpose, the gallows were looked after and repaired. Initially these were simple structures with vertical posts (“2 posts purchased as necessary for the said gallows”) and another horizontal one, that was usually round (“1 round beam”). However, being in the open air, the wood tended to deteriorate: “so that it was totally rotten”.²⁷ So in Tortosa, in 1318, the local authorities paid a carpenter who, accompanied by the jurisdictional official, had to repair the gallows, damaged by wind and rot: “a carpenter from La Sènia was sent with the vicar to make and rebuild the gallows that were knocked down by the wind and rotten”.²⁸ The repairs were not very expensive, although the cost gradually rose. In the first half of the fourteenth century, vertical posts cost between 3 and 6 shillings each and the horizontal one, half that. These figures would rise towards the end of the century to 16 and a half shillings in places like Puigcerdà.²⁹ Everywhere, the cost of transporting the material and the

carpenters, with their board and lodging in the case of travel, had to be covered³⁰: “the beasts that take the beams to the gallows for the carpenters to put up”.³¹ These expenses were paid by the holder of the jurisdiction, this being the monarch in the areas under royal jurisdiction.³² However, the explicit claims for access to royal jurisdiction by the municipality explains why the council paid for repairs in places like Tortosa³³ or Cervera³⁴ and for moving them, if necessary, for strategic reasons. The latter was what the government of Barcelona did in 1357 when it ordered the stone gallows in Montgat, on the northern edge of the limits of the city (“they ordered the stone gallows that were here to be moved and placed somewhere else”) to be moved to facilitate the safety of the coastguards who had to set beacon fires: “to ensure the safety of the guards who were charged with setting the fires”.³⁵ In other cases, the municipal governments showed their desired and determined position as (self-serving) guarantors of the royal jurisdiction by guiding the actions of the jurisdictional official regarding these emblems of punitive power. This happened in Tarragona in 1388 when the official was told to repair the gallows:

As the city is badly equipped with pillory and gallows which it is said the vicars have to have in good state, it has been decided and ordered by the councillors and given power to require, protest to the vicars and demand that the said pillory and gallows be repaired.³⁶

One way and another, the gallows became a crossroads for the royal official, who on one hand, had the authority of the monarch and, on the other, was pressured and annexed by the urban forces anxious to manage the same royal power, which was visibly demonstrated by the gallows. Thus, in royal areas, repairs were usually carried out in the presence of the official who held the royal jurisdiction. Consequently, the vicar accompanied the carpenter on journeys paid for out of local funds, as in Tortosa in 1318.³⁷ A similar combination between municipal initiative and the recognition of royal authority can be seen in Barcelona in 1382. The local government urged the king to move the gallows so that they would not interfere with the maritime activities on the shore (*ribera del mar*). On this request from the city (“a petició de la ciutat”) the monarch ordered his jurisdictional official, the vicar, to move the gallows.³⁸

The attempts by large municipalities to influence the royal jurisdictional official, and through him, to appropriate the invocation of royal power over their region of influence, did not escape the holders of jurisdictions. In the vicarage or *vegueria* of Cervera, in 1400, Baron Ponç de Ribelles erected gallows in his domains because he claimed that the king had granted him the full jurisdiction. The vicar, as the royal jurisdictional official, rejected this and had these

gallows demolished. The baron clearly interpreted that the royal official was inspired to order this demolition by the municipal government of Cervera. That is why he submitted his complaint to the local council, expecting to be compensated, and only if he were not attended would he go to the king against the municipality. The baron's perception showed that the town's government had de-facto control over the royal official and, through him, the administrative region and the actions done there in the name of the royal jurisdiction:

It was proposed in council that the councillors have had a letter from Sir Ponç de Ribelles in which he lets them know that as in the town some gallows have been demolished in some jurisdictions that he had received from his majesty the king, for which he had suffered damages, costs and expenses, because he demanded that the councillors should replace these, because, if not, there are no doubts that he will submit the case to the Royal High Court of his Majesty the King.³⁹

There was a similar situation in Albons in the jurisdictional dispute between the king and the count of Empúries. The building and destruction of gallows started in 1304⁴⁰ reoccurred in 1312, when the count ordered them to be built of stone and mortar: *lapide et de calce*.⁴¹ The base of the gallows anywhere could always be reinforced with stone and solid construction, as shown schematically in one of the three books of privileges of Tárrega (see [Figure 5.1](#)).⁴²

Building the gallows of stone, more than protecting them against specific jurisdictional disputes, supplied the solidity and solemnity with which it was desired to display the jurisdiction. In 1319 in Barcelona, the municipal government of the city requested and obtained from the king permission for the territory of the city be marked by gallows "of stone".⁴³ At that time, the local government worked to emphasise that its influence went beyond the strict limits of the city into a wider circle, known as the Territory of Barcelona,⁴⁴ which the king would mark out with stone gallows:

Cum nos ordinaverimus et velimus quod in locis de Muntgat e de Castell de Fells et in loco collis de ça Guavarra et de valle Vitraria et iuxta villam Molendinorum Regalium Luppricati usque ad que loca termini civitatis Barchinone inclusive protenduntur furce lapidee ponantur in quolibet locorum predictorum.⁴⁵

The gallows thus had to express an ostensible embellishment, very clear when, in the same case of Barcelona, they were completed with the coat of arms of the city together with that of the holder of the jurisdiction, the monarch⁴⁶: "on each of the pillars seals were sculpted, that is, of his Majesty the King and of the City".⁴⁷ In the first place, this measure equated the city and the monarch. The former

achieved a full symbolic presence through its coat of arms, thus reclaiming its political and social position.⁴⁸ Situated on the same pillar of the gallows, the two shields showed everyone that the royal jurisdiction belonged to the sovereign but also, to a certain degree, to the city, just when the local councillors were developing a political discourse to claim the pre-eminent position of the city as the capital over the whole country or even all the Crown.⁴⁹ On displaying the city's image, the gallows had to be sumptuous and beautiful, so these characteristics was among the aims of the local rulers.⁵⁰

In any case, and beyond this consequences, the gallows always gave a sense of delimiting jurisdictions.⁵¹ Indeed, in 1451, on summarising the previous privilege from 1319, the councillors of Barcelona naturally established the equivalence between settings the limits of the city and putting up gallows:

his majesty King James the second, to designate the limits of the said City that are in Montgat, at the pass of Finestrelles, near Trinitat at the Collcerola, from Vallvidrera to La Gavarra and near the town of Molins de Rei and the Castelldefels, had gallows erected.⁵²

This same perception, associating the city limits with the gallows, was maintained in the seventeenth century. This is why, referring to the jurisdictional conflicts in the city in 1447, it was explained that then, "the limits of Barcelona were designated and to this effect, stone gallows were put up".⁵³ Defining the limits of the jurisdiction and building gallows were one and the same. King Martin reflected it in 1404 when, dealing with the borders in the Aran Valley, he was concerned to stop disputes about the limits ("to relieve and avoid many ills and scandals that at present are sure to arise from the question of the limits"⁵⁴). That is why he established a commission empowered to define the limits, erect the gallows and assuage the tensions, all these being different faces of the same question: "we give full power to set up boundary stones on the limits, set up gallows in these and pacify all hatreds".⁵⁵

The symbolism even took over the image, which is why gallows, with all their jurisdictional significance, sometimes came to be erected as three stone pillars on the edge of the municipal limit. These three vertical stone columns recalled the gallows, as in Solsona in 1291, when joint domain over the town was agreed by the local canonry and the viscount of Cardona. At that moment it was specified that, on the border of the municipality of Castellar, nowadays Hostalet de les Forques, "it continues to have three stone pillars for three common gallows in one jurisdiction and the other".⁵⁶ The three pillars, above all, symbolised the limits. The horizontal wooden beam over them completed the vision and, if necessary, the initial function of the gallows, as described in Barcelona in the mid fifteenth century: "three

pillars of stone and wooden beams above and across them”.⁵⁷

Figure 4.1 The stone gallows in Algerri, reconstructed in the early twentieth century into a site of religious significance as a likeness of the “Cross of Calvary”

Given their symbolism, the jurisdictional discussion could be focused formally on the gallows. The attempt by the city of Barcelona to prevent the municipality of Molins de Rei being segregated jurisdictionally from the supposed territory of Barcelona in 1334⁵⁸ was based on a dispute about the gallows, successively built and demolished by the parties to the conflict:

On the 4th of the Kalendas of March 1333, the vicar of Barcelona, on request from the council of the city, should go to Molins de Rei, and demolished the pillory and gallows that Guillem and Francesc Bastida, lords of the said village, again had built, because it was prejudicial to his Majesty the King and the Vicarage in the jurisdiction and the Eminent Citizens of Barcelona with regard to the judicature and on the 6th of the Idus of April 1334, presented to the vicar the commission by Prince Peter to make inquiries against the said Bastidas for the said construction of gallows.⁵⁹

Some hundred years later, in the mid-fifteenth century, the same place once again generated similar interest with the bitter clash between the patricians who ruled the city of Barcelona and Galceran de Requesens, then governor of Catalonia⁶⁰ and lord of Molins de Rei.⁶¹ In this context, the tensions and destruction of the gallows were repeated, with the vicar reporting the state in which the gallows were found, “near the said village of Molins de Rei, which are demolished and the stones scattered on the ground”.⁶²

Similarly, in 1355 the bishop of Vic called on the king’s vicar to destroy the gallows that he had had built in Mas Dalmau as he considered the place to be outside royal jurisdiction.⁶³ The building of gallows became a competition among two contenders for the jurisdiction. Thus, in 1304, when the count of Empúries erected gallows on the territorial boundary of the castle of Albons, the monarch immediately sent his vicar from Girona to demolish them.⁶⁴ This act rekindled a legal dispute about the jurisdiction that simmered on over the following decades.⁶⁵ The same happened in 1319 in Les in the Aran Valley,⁶⁶ and in 1360, when the vicar of Girona opposed the gallows put up in Amer.⁶⁷

In this context, the destruction of gallows belonging to others became one of the symptoms of disputes over jurisdiction. At the beginning of the fourteenth century, the vicar of Girona destroyed the gallows built by the lord of Palau de Terri.⁶⁸ He also had to do the same in 1339 in Palau Sator⁶⁹ or, in the fifteenth century, in the

Hostoles Valley.⁷⁰ In this case, destruction and reconstruction would follow each other, like the long saga in Foixà with the count of Empúries⁷¹ or, at the other end of the country, in La Sènia in 1312. In the latter case the gallows put up by the royal official in Tortosa were promptly destroyed by the Knights Hospitaller preceptory of Ulldescona,⁷² a symptom of the serious prolonged jurisdictional dispute for the place. Beyond arbitration and trials, this would be reopened frequently, because of the perpetuation of different interpretations of the jurisdictional rights in a region where people moved and mixed frequently socially and economically despite the different jurisdictions.⁷³ Not very far from there, in l'Aldea and La Candela, the jurisdictional conflict for the rights claimed by the Sanahuja family provoked numerous episodes of tension, that included the demolishing of the gallows.⁷⁴

This kind of conflict was linked to the fragmented jurisdictional system. That is why the similar events appeared in disputes between baronial domains, with no intervention from the king's officials. In the disputes between the archbishop and chamberlain of Tarragona cathedral about the jurisdiction in Reus,⁷⁵ shortly before the mid-fourteenth century, the former had the gallows the latter had built knocked down—"furchas patibulares funditas dirruerant"—with the clear intention of claiming jurisdiction over the place.⁷⁶ For the same reason, when a sentence went against him, he was obliged to rebuild them.⁷⁷ Significantly, there was a similar conflict around the same time between the count of Pallars and the abbot of Gerri, over places belonging to the latter in the county of Pallars. When they agreed to share the jurisdiction in the disputed places, the clearest way to reflect this joint domain consisted of specifying that both would use the same gallows.⁷⁸

Thus, taking possession of a jurisdictional power meant building gallows in a strategic place. This was the case in Palau in 1339: "in signum vere et realis possessionis fuerint fixe furchae in termino dicti castri de Palau in quodam podio qui est iuxta pedronum loci de Buada seu in medio vel inter locorum de Buada et de Fonteclearo".⁷⁹ The progressive cession of the jurisdictional domain went the same way, although it was ceded as a collateral for a credit (*carta de gràcia*). In 1342, when Peter the Ceremonious received financial help from the abbot of Poblet to deal with the problems with the Benimerins in the Straits of Gibraltar, to guarantee the loan he conceded the *merum* and *mixtum imperium* in Verdú,⁸⁰ an important place that had belonged to the monastery since 1227,⁸¹ and explicitly recognised the capacity to put up gallows and pillories as signs of the full and minor jurisdiction respectively.⁸² The concessions of *merum imperium* were often accompanied by a specific recognition of the right to erect gallows, as

in Cabrera and Roda in 1330.⁸³ A clear example was that, when full jurisdiction over Artés, Sallent and Castellnou was ceded to the bishop of Vic in 1321, James II acknowledged that the bishop could raise, renew and place gallows of stone or wood wherever he wished as indicators of his *merum et mixtum imperium* in the place.⁸⁴ Similarly, in 1391, when Romeu Sesplanes received La Roca de Vil·lec in Baridà, King John I conceded “*merum et mixto imperium e omnimoda iurediccionem alta e baxia civili e criminali*”. He added that, thus, Sesplanes could, “*erigere et erigeri facere totiens quociens volueritis perpetuo furcas, custellum, perticas et alia signa merum et mixtum imperium et omnimodam iurediccionem altam et baxiam civiles et criminales*”.⁸⁵

As an indicator of the jurisdiction, the same expressions indicating that the cession of the full jurisdiction included the right to erect pillories and gallows were used when the offerer was a noble whose domain reverted to royal jurisdiction. This was the case of the Count of Foix, who ceded the jurisdiction of the part of Montcada in the city of Vic to the king in 1450. The city was until then divided into two parts, one belonging to the king since 1316 and another belonging to a noble. The count stated that he gave “*omnimodam iurisdiccionem civile et criminalem altam et baxiam, merum et mixtum imperium et ipsarum iurisdiccionum plenum excersitium cum furca, custello et aliis signis exercicium ipsarum iurisdiccionum denotantibus*”.⁸⁶

The gallows, thus, emanated from sovereign power, and could not be ceded or negotiated in themselves. They were a visual sign of the supreme power of a lord, and could be erected or destroyed, but never used by another lord. In 1318, in Vic, a city split between royal and baronial jurisdictions until the aforementioned cession of 1450, the holder of the latter not only complained that the monarch had erected gallows in his domain but also that, to show this, he wanted his own bailiff to use them as the jurisdictional officer. He received a strong response from the royal officials, who believed themselves to be the sole depositaries of the monarch’s jurisdiction in the area and so, the only ones permitted to use the gallows that had been built by the king: “*in loco ubi dominus rex per officiales suos fecit figi dictas furchas nec aliquis baiulus dicte civitatis potest punire ad suspendium nisi tantum vicarius vel subvicarius domini regi*”.⁸⁷

The gallows, as such, could not be ceded, but instead had to be knocked down at the end of the lordship to be replaced by others erected by the new lord. Indeed, when the king obtained jurisdiction over Olot in 1400, this change was symbolised by the destruction of all references to the abbot of Ripoll, the person who had until then ruled over the town.⁸⁸ The same year, when Bernat de Bell-lloc ceded the jurisdiction he had held until then in Sant Gregori, his gallows

were destroyed and new ones built “in alio loco dicte parrochie scilicet in quadam possessione terre que est d'en Tornavells de Ginestrísio infra dictam parrochiam”.⁸⁹

Thus, building gallows became a specific act in the ceremony of taking possession in the name of the new lord.⁹⁰ In 1395, Joan Aguiló acquired Mor, Aguilèlla, Montalbà, Corbella and Calaçant. In each of these places, the same ceremony would be held that firstly took place in Mor. Here, the vicar, as the royal jurisdictional official in the demarcation, presided over a specific ceremony erecting the gallows where the route reached the limits of the place, in this case through the important public highway that linked Tàrrrega and Balaguer:

fecit apponi, afigi et erigi furcas et fixis et apositis sit erectis ipsis furquis, idem venerabilis locumtenens vicarii dixit verbotenus verba seguiciam vel similia in presencia Romei Aldeomor, Petri Miro, Iohannis de Muntleo, testium ad hec presencium et constitutorum: “eminent citizens, by order given to me by his majesty the king in his own hand which has been presented to me by the honourable Joan Aguiló, I put into possession of the said honourable Joan Aguiló the *merum* and *mixtum imperium* and all other jurisdiction which belongs to the said king in the castle of El Mor and whose limits and in a ‘quadra’ being in the said limits that is now of the heirs and successors of Joan Solsona, who was from Vilagrassa. Whose *merum* and *mixtum imperium* and criminal jurisdiction and all other kind or nature of possible jurisdiction, the said lord the king has sold to the said Joan Aguiló, because as a sign of the said possession I have had there built gallows and this place in the limits of El Mor and in presence of you as a sign of passed possession”.⁹¹

This model of ceremony was designed to show how the royal official offered the jurisdiction to the new holder. Another, much more habitual, formula consisted of the receptor erecting his own gallows. The ceremony began with the acts of taking possession of the place, normally in the castle which controlled the district. Then the new lord ordered a proclamation with declarations that usually began by condemning blasphemy and often also gambling. Then, in the company of the necessary witnesses and the notary, they went on to the prominent place where “plantavit seu erigi et plantari fecit furchas in signum iuridiccionis ac possessiones”, as mentioned, in 1393, in Maurellàs.⁹² All these ceremonies, with the public acquisition of the place and the jurisdictions, were later adapted to more complex, ritual and symbolic formulae, that did not require the gallows to be re-erected. This was detailed in the sixteenth century in Bagà.⁹³

To sum up, having the right to apply the death penalty allowed the person who enjoyed the complete and supreme jurisdiction to flaunt it. The specific landscape of the country must be contrasted with the

effective application, that is, with the invocation of the death penalty that at the same time impregnated the effective holders of jurisdictional power and the legal function.

Indeed, the gallows absorbed all the jurisdictional significance, because they indicated who enjoyed the supreme power. They pointed out who held power and, by delimiting the jurisdictional space, became geographic markers, a way of indicating the boundaries of territorial units. They were a symbolic code shared throughout contemporary medieval Europe. In Portugal, gallows marked out individual territorial entities, they became a means of expressing local identity and municipal autonomy.⁹⁴ This was not very different from Castile where the building of gibbets became linked to the recognition of the category of “villa”.⁹⁵ In 1946, Joseph Calmette interpreted that municipal independence from the feudal powers was defined by the seal, the belfry and the gallows: “the seal, the belfry, the prison gallows, the hallmarks of high justice, express this feudal quality of the council of the bourgeois”.⁹⁶ The gallows marked the full jurisdictional capacity of certain cities but also the full capacity of the feudal lords. That is why there were clashes all over Europe around the gallows. At Christmas 1390, the officials of the chatelaine of Châtillon built some gallows three kilometres from Besançon in the name of the count-duke of Burgundy. The representatives of the city could not accept these given their autonomy as an imperial city. This gave rise to a famous trial from 1391 about the gallows and everything they signified.⁹⁷

That being so, and especially in the specific case of Catalonia, a country identified with a landscape full of gallows due to the mosaic of jurisdictions that had been consolidated in the fourteenth century, the question is to ask if the symbolic jurisdictional function had completely absorbed the significance of the gallows or whether they still retained their power to intimidate, as a means of capital punishment. The response was very clear. Although the country was a forest of gallows, these had not become banal but still maintained their ability to intimidate. In other words, they were reminders that the jurisdictional lord could hang his subjects who failed to comply with the law. Thus, in specific moments, the display of the gallows served to frighten the populace. When the procurator general of Catalonia intervened in Tàrraga in early 1349 as a result of the serious attack on the Jewish neighbourhood some months earlier in which many Jews were killed,⁹⁸ he began by imposing a very visible measure: the erection of specific gallows in the town.⁹⁹ The widespread assaults on Jewish quarters in 1391 led to an identical response from the governor of Catalonia, who had scaffolds put up in three central squares in Barcelona.¹⁰⁰ In another context, but seeking

to a large extent the same significance, in 1366, after having had Bernat de Cabrera, count of Osona, executed,¹⁰¹ King Peter the Ceremonious required the obedience of the municipal government of Vic, until then under the noble's jurisdiction, and not only threatened its members with death but also visualised that threat by putting up gibbets in the town's square.¹⁰² Fear and gallows again became naturally mixed in the relation between the Crown and the municipality in 1437. The governor of Catalonia (officially: *gerens vices gubernationis generalis in Cathalonia* or, in Catalan, *portant veus de la general governació a Catalunya*)¹⁰³ wanted to reform the system for electing the council in Girona, theoretically to combat the endemic division between bands,¹⁰⁴ but came up against the opposition of the local government. He then opted for various deterrent measures including gallows placed just in front of the municipal council building, and which had to infuse fear. The complaint the council took before the queen in the Parliament or general courts repeated the terms force and fear several times as tools used by the governor to infringe the electoral systems that the members of the town's government considered to be their own, traditional and inviolable:

My lord very excellent Sir Joan de Corbera, spokesman of the governor with great punishments, prisons and arrests and hard menaces, has placed and erected gallows before the House of the said city to place more terror and so we held the said elections according to the wishes of the said spokesperson and not according to their privileges and ancient customs; (...); through the terror and threats and placing and erecting gallows and not responding to certain requests and appeals has had another election done in a form not customary and totally diverted from their privileges and freedoms; (...) through the said terrors and menaces the said day he had prevented the juries and council of the said city to elect the juries and council and other posts for the present year, according to what is due following their ancient privileges and uses; (...) all the pressures, prisons, arrests, impositions of punishments, placings on gallows, elections of council and juries and officials and all and any other acts and actions by the the said spokesperson, done by himself, by the the said letter or by any way, must be declared invalid and ineffective, so the things must go back to the previous situation.¹⁰⁵

Gallows and fear were two faces of a model of political management, based on spreading terror. In 1432, in a Barcelona increasingly fractured because of the tensions of the local government between the oligarchy and reformist groups,¹⁰⁶ the governor intervened returning to the combination of force and fear. New gallows and new pillories, clearly displaying the axe that was used for cutting off heads and hands, were installed in central places to keep

the people calm and encourage them to comply with the restrictions on carrying weapons: “for the said reason that the people became most calm, the gallows were done and erected in the *Plaça Nova* (New Square) and in the *Plaça del Blat* (Wheat Square), and I saw there the axe and pillory”.¹⁰⁷ A witness explained it as follows:

The witness said that in that time he was in Barcelona as a sworn scribe in the vicar’s court, as he currently continues to be. And the said Sir Guerau de Cervelló, governor of Catalonia ordered gallows to be built in many squares of Barcelona. He seems to remember that in the *Plaça de Sant Jaume* (Saint James Square) the governor ordered to put the pillory and axe apt for cutting and taking fists. The witness saw them erect gallows in the *Plaça Nova* (New Square) and in the *Plaça del Blat* (Wheat Square), and he saw that everybody in Barcelona came calmly and without arms, except the coat of mail and armour worn by those who kept it and knife or dagger of limited dimension, and he does not know that anyone came against the said ordinances.¹⁰⁸

The municipal governments complained that they were being pressurised through the gallows. In 1349, the highest authority delegated by the king in Catalonia, Jaspert de Guimerà,¹⁰⁹ had had a special scaffold built in Cervera after the riots against the Jews in the town the previous year. It showed his determination to pursue the culprits and punish them quickly.¹¹⁰ However, the municipal council interpreted this action as really an alteration of the ordinary justice, which was also royal although the local magistrates interpreted it as their own. So, when the high royal delegate left the town, the local authorities, also invoking royal authority, but from the proximity to the municipality, ordered the royal bailiff to demolish the new gallows and transfer the two bodies that were hung to the traditional ones, the municipal treasury assuming all the cost:

The honourable Sir Gispert de Guimerà, in charge of the office of the General Procuration in Catalonia, had taken two men who had participated in the riot against the Jews and ordered them hung in the vineyard of Pere de Cardona, which is here beside the town, and we procured that these hung people were moved and that they were placed on the old gallows and the gallows that had been newly built in the said vineyard be demolished, which is why we send the sergeants of the bailiff’s court, with servants and two animals to destroy the said gallows.¹¹¹

Indeed, the municipal authorities resorted to the same measures of invoking terror through force when they believed it would benefit them. So, the municipalities sought to use the gallows to intimidate. Given the serious shortage of grain that Tortosa suffered in 1374, which would be recalled as the “the bad year”,¹¹² the municipal

government wished to avoid becoming the target for popular revolts for its inability to supply the town and explicitly chose to spread terror by building gallows: “be placed on some gallows to make the people fear, so they do not rise up against the councillors of the city for the dearth and shortage which is presently in the city”.¹¹³

In this sense, the gallows concentrated a power to intimidate and were resorted to, based on the conviction that punishment, and threat of punishment, were the way to maintain order. Outside Catalonia, in Elche, in the south of the kingdom of Valencia in 1416, the municipal government, with the knowledge of the procurator of the city of Barcelona, given that it held the lordship of the town,¹¹⁴ ordered the building of solid, well-built gallows along the two main paths. There were no special violent tensions, but there was a fear of foreign people—all innkeepers were obliged to reject suspicious people (“the innkeeper who accepts in his establishment someone who is suspicious, odious or of bad fame”¹¹⁵)—and a general concern about avoiding the wrath of God for tolerating his enemies or behaviour against the Christian norms. The gallows were also interpreted as a good remedy in these cases, thanks to the fear that their erection provoked among the people:

The present council order, under the approval of the mentioned honourable procurator that gallows be made on the way of the town of Oriola and on the way that goes to the town of Alacant for the punishment and correction of bad men and for others it serves as an example and said council assign Bertomeu Ferri to do these and that they be made and worked of stone from the plain by the workers who are doing the wall and what the cost of the lime and any other material that it will be need will be purchased and paid by the person responsible for the works in the council.¹¹⁶

The councillors of Elche added that they accepted this cost as an exceptional expense, because the scaffold usually had to be erected and paid for by the owner of the jurisdiction: “the council will not be forced in the future to make or maintain gallows, because these acts belong to the lordship of the town”.¹¹⁷ The gallows, finally, indicated the lord who hold the full jurisdiction over the lives of their subjects.

Thus, the gallows that occupied the landscape were a message for the population who would be reminded that to be hung from them was the fate of those who failed to observe the normal and indisputable social order, and that who ruled, in the end, was the person who had the power to order the use of the gibbet. The permanent gallows evoked the jurisdiction, recalling who held power. The scaffolds put up occasionally invoked fear, as reminders of the serious consequences of the exercise of that power. Both images referred to the holder of power, he who could build gallows and apply

terror. Indeed, in the end, the gallows referred to power, to he who enjoyed the highest power. This image was widely accepted among the populace. In 1456, in Sciacca, on the island of Sicily, a revolt broke out, caused because the local leaders encouraging the “plebem et multitudinem gencium” against the royal representatives, and very significantly, the first act of the rebelliousness by the insurrectionists was to knock down the royal gallows: “plures de populo cum tumulto et vociferacionibus contra eum insurrexissent lignaque furcarum predictarum cepissent et alonge prolecissent”.¹¹⁸ The monarch’s full superior power was thus formally damaged by this demolition of his gibbets.

Notes

- 1 The Catalan language still contains expressions and idioms derived from this scenario, such as *anar a la quinta forca* (go to the fifth gallow), meaning to go far having to cross the limits of various gallows. Although this expression is widespread in Catalonia, Josep Maria Huertas interpreted that it was really derived from the scaffolds around Barcelona: Josep Maria Huertas, *Mites i gent de Barcelona*, Edicions 62, Barcelona, 2011, pp. 17–18.
- 2 AMC, Llibre dels usos i privilegis d’Olot, f. 108v.
- 3 Luis Miravalles: *Los rollos jurisdiccionales*. Castilla Ediciones, Valladolid, 1996, p. 8.
- 4 “la hobra del pilón”. Soledad Beltrán, *Las finanzas de un concejo castellano: Pudahíta, siglos XV–XVI. Estudio y documentos. Volumen VI (1467–1473)*, Ediciones de la Institución Gran Duque de Alba de la Excma. Diputación Provincial de Ávila—Ediciones de la Obra Cultural de la Caja de Ahorros de Ávila, Ávila, 2011, p. 145.
- 5 “patibula, furchas, medias furchas, costellos et pexias”. ADPO 1B-207, f. 60r.
- 6 ACA C, reg. 1702, f 100r.
- 7 ACUR, parchments, box 12, 1395.
- 8 “Lo rotllo del Mercadal”. Segismond Cunill, “Vich a principis del segle XV”, *Butlletí del Centre Excursionista de Vich*, 5 (1925–1928), p. 80.
- 9 Coral Cuadrada, “Sobre el mer i mixt imperi als senyorijs feudals de la Catalunya Vella (segle XIV)”, *Mayurqa*, 22 (1989), p. 204.
- 10 ACUR, parchments, box 12, 1395.
- 11 Gabriel Secall, “Els camins rals medievals i les creus de terme de Valls”, *Monografies Vallenques*, 3 (1985), p. 112.
- 12 Gabriel Secall, “Els joglars, els jocs i les fires del Valls medieval (segles XIV i XV)”, *Quaderns de Vilaniu*, 2 (1982), p. 49.
- 13 Francesc Cortiella, *Alcover medieval*, Centre d’Estudis Alcoverencs, Alcover, 1987, p. 61.
- 14 ADPO 1B-364, f. 22r.
- 15 Eufemià Fort Cogul, *Costumari de La Selva del Camp*, Associació d’Estudiosos Reusencs, Reus, 1961, p. 34.
- 16 Miquel Montanya, *El tribunal de coltellades. Alguns aspectes processals*, Ajuntament de Lleida—Pagès Editors, Lleida, 2007, p. 178.
- 17 <<http://eoliccat.net/situacio-eolica/llistat-de-parcseolics/>>. Consulted: 4th August 2018.
- 18 Francesc Carreras y Candi, *Geografia General de Catalunya. La ciutat de*

Barcelona, Establiment Editorial de Albert Martin, Barcelona, without date, pp. 411–412.

- 19 Thomas N. Bisson, *Fiscal Accounts of Catalonia Under the Early Count-kings (1151–1213)*, University of California Press, Berkeley—Los Angeles—London, 1984, p. 262.
- 20 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons Bou, eds., Imprempta d'Henrich i companyia, Barcelona, 1916, vol. 5, p. 170.
- 21 David Guixeras, Agustín Rubio, “El parlamento de Juan II ante las cortes generales de Monzón (1469). Una pequeña crónica autobiográfica en lengua castellanoaragonesa”, *Scripta. Revista Internacional de Literatura i Cultura Medieval i Moderna*, 8 (2016), p. 66.
- 22 Currently, it is possible to read it in popular narratives: Patricia Vera Núñez, *Sants, una història alternativa*, Issuu, 2015 <<https://issuu.com/patriciavenu/docs/sants8>>, pp. 33–36. Consulted: 4th April 2018.
- 23 Francesc de Borja Moll, “Forca”, *Diccionari Català-valencià-balear*, Palma de Mallorca, Editorial Moll, 1988, vol. 5, pp. 275–277. Precisely such expressions as “vias forçadas” were frequent in Barcelona during the Early Middle Ages (in 1024, for instance: Josep Baucells, Àngel Fàbrega, Manuel Riu, Josep Hernando, Carme Batlle, *Diplomatari de l'Arxiu Capítular de la Catedral de Barcelona. Segle XI*, Fundació Noguera, Barcelona, 2006, vol. 2, p. 762). Some prudence is needed when the only reference is the place name in the Early Middle Ages: “in pugo de Forchada et in summa serra de Marmelar” appears in a document from 990 about a place on the frontier with Al-Andalus, an impossible place for a meaning related to its use for hanging (Àngel Fabrega, *Diplomatari de la Catedral de Barcelona. Volum I: Documents dels anys 844–1000*, Arxiu Capítular de la Catedral de Barcelona, Barcelona, 1995, p. 414).
- 24 ACBEB, clavaria 1, f. 9r.
- 25 ACA, San Juan Jerusalén, sec 1, armario 11, parchment 483; ed.: Primo Bertran, “Documento sobre un nuevo cementerio judío en Lérida (1383)”, *Sefarad*, 41/1 (1981), p. 216.
- 26 Joan Badia-Homs, Benjamí Bofarull, Rafael Borràs, Enric Carreras, Miquel-Didac Piñero, *Llançà a l'època medieval. Aportacions al seu estudi*, Edicions El Brau, Figueres, 1995, p. 179.
- 27 “II cayrats que compren a obs de les dites forques”; “I cabiró redon”; “per ço com la que i era era tota podrida”. ACBEB, clavaria, book 15, p. 137.
- 28 “tramiten ab lo veguer un fuster a la Cènia per fer e tornar les forques que eren desmontades per vent e per podridura”. ACBEB, clavaria, book 1, f. 6v.
- 29 ACA MR 1512, f. 68r.
- 30 ACBEB, clavaria 1, f. 7r, 9r; Joaquim Sarret, *Història de l'estat polític-social de Manresa*, Imprenta i enquadernacions de Sant Josep, Manresa, 1925, vol. 1, pp. 83–84.
- 31 “los bestays qui portaren les bigas a les forques e ls fusters qui les adobaren”. ACA MR 1500, f. 71r.
- 32 ACA MR 1527, f. 280r.
- 33 ACBEB, clavaria, book 1, f. 6v; 15, p. 137, among others.
- 34 ACSG, clavaria, book 23, f. 55v.
- 35 “fer mudar les forques de pedra que estaven aquí, i posarlas en altre part”; “per ço que les guardes qui fan los farons hi puxan estars segurs”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 5, p. 65.
- 36 “Com la ciutat stiga mal aparellada de costell e de forques lo qual e les quals se diu que ls veguers han a tenir en condret, és stat determenat e

comanat als consòls e dat poder de requerir, protestar als vegers e fer instància que'l dit costell e forques se facen e s'adoben". AHT, Llibre del Consell 1388–1389, f. 10v (Francesc Cortiella, Montserrat Sanmartí, Norbert Miracle, eds., *Actes Municipals 1388–1389; 1393–1395*, Ajuntament de Tarragona, Tarragona, 1988, p. 34).

- 37 ACBEB, clavaria 1, f. 7r.
- 38 Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 5, p. 321.
- 39 “Fo proposat en conseyll que los pahers han hauda una letra de mossèn en Ponç de Ribelles en la qual los fa saber que com a la vila li haye derrochades alcunes forques d'alcunes jurisdiccions que ell havie haudes del senyor rey, per la qual cosa ell havie sostenguts dampnatges, messions e despeses, perquè pregave als pahers que allò li deguessen tornar a loch, sinó que'l tinguesssen per sensat que ell ajustarie. lo dit fet en la Audiència del senyor rey”. ACSG, llibre del consell 1400, f. 64v.
- 40 Flocel Sabaté, *Castelló, capital del comtat d'Empúries a la baixa edat mitjana*, forthcoming.
- 41 ACA C, reg. 240, f. 267r.
- 42 ACUR, Fons Municipal, Llibre de Privilegis III, f. 9r.
- 43 “de pedra”. Pere Català, “Castell de Montgat”, *Els Castells Catalans*, Rafael Dalmau editor, Barcelona, 1990, vol. 1, p. 663.
- 44 Flocel Sabaté, “Barcelona, a Medieval Capital”, *European Review*, 25/1 (2017), pp. 54–56.
- 45 AHCB, Fons Municipal, Llibre Verd, f. 311r; Carreras, *La ciutat de Barcelona*, p. 337.
- 46 Francisco-Luis Cardona, “La ciudad de Barcelona en el siglo XIV a través de sus ordenanzas municipales”, *Cuadernos de Historia Económica de Cataluña*, 17 (1977), p. 60.
- 47 “in quiscun pilar foren esculpts senyals, ço és, del senyor Rey e de la Ciutat”. AHCB, B-VI. Lletres Closes 1451–1452, f. 131r.
- 48 “The urban seal produces identity as an instrument capable of establishing the singularity of a subject, to make it discernible from others. Where the seal of a noble or churchman marks his social and official status, the city seal distinguishes an individuality. But, we should not forget that the seal of the city, however individual it is, refers to a plural person”. (“Le sceau urbaine produit la identité comme instrument capable d'établir la singularité d'un sujet, de le rendre discernable d'avec d'autres. Là où le sceau de personne noble ou ecclésiastique marque statut social et officiel, le sceau de ville démarque une individualité. Mail il ne faut pas oublier que le sceau de ville, pour individuali'se qu'il soit, renvoie à une personne plurielle”). Brigitte Miriam Bezios-Rezak, “Du modèle à l'image: les signes de l'identité urbaine au Moyen Âge”, *Le verbe, l'image et les représentations de la société urbaine au Moyen Age*, Marc Boone, Elodie Lecuppre-Desjardins, Jen-Pierre Sossons, eds., Garant, Antwerp—Apeldoorn, 2002, p. 205.
- 49 Flocel Sabaté, “Barcelona: The Building of a Territorial and Ideological Capital”, *Viator*, 48/1 (2017), pp. 107–117.
- 50 Flocel Sabaté, “Ciudad e identidad en la Cataluña bajomedieval”, *Ante su identidad. La ciudad hispánica en la Baja Edad Media*, José Antonio Jara Fuente, ed., Ediciones de la Universidad de Castilla—La Mancha, 2013, pp. 194–201.
- 51 Coral Cuadrada, “Poder, producción y familia en el mundo rural catalán (siglos XI–XIV)”, *Relaciones de poder, de producción y parentesco en la Edad Media y Moderna*, Reyna Pastor, ed., CSIC, Madrid, 1990, p. 232.
- 52 “lo senyor rey en Jacme segon, per designar els termes de la dita Ciutat qui

són a Muntgat, al coll de Ffinestrelles prop la Trinitat al Coll de Cerola, de Vallvidrera a la Gavarra e prop de la vila de Molinderreig e a castell de Fels, feu posar forques”. AHCB, B-VI, Lletres Closes 1451–1452, f. 131r.

- 53 “se designan els térmens de Barcelona i per dit efecte se plantan forcas de pedra”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons Bou, eds., Imprempta d’Henrich i companyia, Barcelona, 1915, vol. 4, p. 73.
- 54 “per rellevar e squivar molts mals e scandels qui a present se porten seguir per la qüestió dels térmens”. ACA C 2247, f. 86r-v; ed: Daniel Girona, “Itinerari del Rey en Martí (1403–1410)”, *Institut d’Estudis Catalans. Anuari*, 5 (1913–1914), p. 548.
- 55 “nós donam ple poder que puxats mollonar els térmens, plantar forques en aquells e pacificar tots odís”. ACA C 2247, f. 86r-v; ed: Girona, “Itinerari del Rey en Martí, p. 548.
- 56 “continui havent-hi tres pilars de pedra per a tres forques comunes a un i altra jurisdicció”. Antoni Llorens, *Solsona i el Solsonès en la història de Catalunya*. Editorial Virgili & Pagès, Lleida, 1986, p. 266.
- 57 “tres pilars de pedre e barres de fust dalt a través” AHCB, B-VI, Lletres Closes 1451–1452, f. 131r.
- 58 Flocel Sabaté, “Territori of Barcelona”, *Enciclopèdia de Barcelona*, Ramon Alberch, Jesús Giral, eds., Enciclopèdia Catalana, Barcelona, 2006, vol. 4, p. 167.
- 59 “A 4 de las Chalendas de mars 1333, requesta, y consell de consellers dat al veguer que anàs a Molins de Rey, y derrocàs lo costell y forcas que Guillem y Francesch Bastida, senyors de la dita vila, novament havian edificat, per què era en perjudici del Senyor Rey y de la Vegueria en la jurisdicció y del Promens de Barcelona en lo que és la judicatura y a 6 dels Idus de abril 1334, presentan al veguer la comissió del infant Pere per que fassa inquisició contra dits Bastidas per la dita erecció de forcas”. Bruniquer, *Ceremonial dels magnífichs consellers*, vol.4, p. 72.
- 60 Carme Batlle, *Barcelona a mediados del siglo XV*, El Albir, Barcelona, 1976, pp. 18–22.
- 61 Josep Fernández Trabal, *Política, societat i economia en una vila catalana medieval. Molins de Rei 1190–1512*, Ajuntament de Molins de Rei, Molins de Rei, 2005, pp. 153–167.
- 62 “prop la dita vila de Molindereig, les quals trobà enderroquades e les pedres per terra”. Carreras, *La ciutat de Barcelona*, undated, p. 337.
- 63 AHMV, llibre de privilegis XXVII, parchment 498.
- 64 ACA C, reg. 235, f. 144r.
- 65 ACA C, reg. 241, f. 81r.
- 66 ACA C, reg. 245, f. 132v.
- 67 AHCG I.1.1, book 7, f. 77bis r.
- 68 AHCG I.1.2.1, lligall 2, book 1, f. 123r.
- 69 AHCG I.1.2.1, lligall 3, book 3, f. 34v.
- 70 AHCG XV.4, lligall 1, llibre 4, unnumbered.
- 71 José Pella i Forgas, *Historia del Ampurdán. Estudio de la civilización en las comarcas del noreste de Cataluña*. Luis Tasso and Serra, impresor, Barcelona, 1883, p. 515.
- 72 ACA C, reg. 240, f. 92r.
- 73 Flocel Sabaté, “El veguer i la vegueria de Tortosa i Ribera d’Ebre al segle XIV”, *Recerca*, 2 (1994), p. 122.
- 74 Sabaté, “El veguer i la vegueria de Tortosa i Ribera d’Ebre”, p. 124.

- 75 Andrés de Bofarull i Brocà, *Anales históricos de Reus desde su fundación hasta nuestros días* (1867), Asociación de Estudiosos Reusenses, Reus, 1861, vol. I, pp. 26–29.
- 76 ACBC, parchments 12–19; 13–3.
- 77 Ezequiel Gort, “Un moment penós en la nostra història: quan els tarragonins assaltaren Reus el 1349”, *Universitas Tarraconensis*, 4 (1981–1982), p. 174.
- 78 Ignasi Puig, “Pariatges entre els abats de Gerri i els comtes del Pallars Sobirà i de Foix, dels segles XIV i XV”, *Urgellia*, 2 (1979), p. 352.
- 79 AHCG, I.1.2.1, lligall 3, llibre 3, f. 25r.
- 80 Josep Joan Piquer, *El senyoriu de Verdú. Introducció per a l'estudi del règim jurisdiccional que els abats de Poblet exerciren sobre la vila*, Reial Societat Arqueològica, Tarragona, 1968, p. 84.
- 81 Ramon Boleda, *El Castell de Verdú*, A. G. Camps, Tàrrrega, 1984, unnumbered.
- 82 Agustí Altisent, *Història de Poblet*, Abadia de Poblet, Poblet, 1974, p. 229.
- 83 AVV, lligall de registres 4, plec 1329, unnumbered.
- 84 Fortià Solà, *Història de Sallent*, Institut d'Arqueologia, Història i Ciència Naturals, Sallent, 1987, p. 57.
- 85 ADPO 1B-157, fol 1r-v.
- 86 AHMV, llibre de privilegis XIX, f. 244r.
- 87 AHMV, llibre de privilegis XXV, parchment 438.
- 88 ACGAX, parchment A-212.
- 89 AHCG XV.R, lligall 1, llibre 2, unnumbered.
- 90 Julián de Chía, *Bandos y bandoleros en Gerona. Apuntes históricos del siglo XIV hasta mediados del XVII*, Imprenta y librería de Pociano Torres, Girona, 1888, vol. 1, p. 35.
- 91 “fecit apponi, afigi et erigi furcas et fixis et apositis sit erectis ipsis furquis, idem venerabilis locumtenens vicarii dixit verbotenus verba seguiciam vel similia in presencia Romei Aldeomor, Petri Miro, Iohannis de Muntleo, testium ad hec presencium et constitutorum: ‘prohomens, per manament a mi feyt per lo molt alt senyor rey ab letra sua lo qual m’és stada presentada per lo honrat en Johan Aguiló, jo met en possessió lo dit honrat en Johan Aguiló corporal ho quaix del mer e mix imperi e de tota altra jurisdicció que al dit senyor rey se pertangués en lo castell del Mor e terme d’aquell e encara en una quadra en lo dit terme stant que ara és dels hereus e succehidors d’en Johan Solsona, quondam de Vilagrassa. Lo qual mer e mixt imperi e jurisdicció criminal e tota altra de qual se vuylle natura ho specie sie, lo dit senyor rey ha venuda al dit Johan Aguiló, perquè en senyal de la dita possessió jo he feytes ficar ací forques e aquest loch dins lo terme del Mor e en presència de vosaltres en senyal de liurada possessió”. ACUR, pergamins, caixa 12, 1395.
- 92 ADPO 1B-207, f. 49r.
- 93 Joan Serra i Vilaró, *Baronies de Pinós i Mataplana*. Centre d’Estudis Baganesos, Bagà, 1989, vol. I, pp. 268–270.
- 94 Jorge de Oliveira, Ana Cristina Tomás, *As forcas do distrito de Portalegre: 140 anos após a abolição da pena de morte em Portugal*, Colibri, Lisbon, 2007, p. 153.
- 95 Antonino González Blanco, “Horcas, Rollos, Picotas y otros símbolos o instrumento de justicia en la Región de Murcia”, *Homenaje al professor Juan Torres Fontes*, Universidad de Murcia—Academia Alfonso X el Sabio, Murcia, 1987, vol. 1, p. 662.
- 96 “Le sceau, le befrei, les fourches patibulaires, signes parlants de la haute justice, expriment cette qualité féodale de l’université des bourgeois”. Joseph Calmette, *Le Monde Féodal*, Presses Universitaires de France, Paris, 1946, p.

- 97 Sylvie Bépois, *Une cité et son territoire. Besançon, 1391, l'affaire des fourches patibulaires*, Presses Universitaires de Franche-Comté, Besançon, 2010.
- 98 Anna Colet, Oriol Saula, "Tragèdia al call. Tàrrrega, 1348: el fossar dels jueus i el carrer de la Font 7-9", *Actes de la X Jornada Reviure el patrimoni. La recuperació del patrimoni jueu, (30 d'octubre e 2015)*, Museu Comarcal de Cervera, Cervera, 2015, pp. 42-44.
- 99 Gener Gonzalvo, Josep Hernando, Flocel Sabaté, Max Turull, Pere Verdés, *Els Llibres de Privilegis de Tàrrrega*, Fundació Noguera, Barcelona, 1997, p. 315.
- 100 Jaume Riera, "La destrucció del call de Barcelona", *Història, Política, societat i cultura dels Països Catalans*, Borja de Riquer, ed., Enciclopèdia Catalana, Barcelona, 1996, vol. 3, pp. 282-283.
- 101 Francisco Monsalvatje, *El vizcondado de Bas*, Imprenta y librería de Juan Bonet, Olot, 1883, p. 64.
- 102 Eduard Junyent, *La ciutat de Vic i la seva història*, Curial, Barcelona, 1976, pp. 103-105.
- 103 Flocel Sabaté, "La governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya", *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 25-26.
- 104 Santiago Sobrequès, "Regimen municipal gerundense en la Baja Edad Media", *Anuario del Instituto de Estudios Gerundenses*, 10 (1955), pp. 165-234; *Societat i estructura política de la Girona medieval*, Curial, Barcelona, 1975, pp. 82-90.
- 105 "Senyor molt excellent mossèn Johan de Corbera, portant veus de governador ab grans penes, presons e arrests e dures comminacions plantant e erigint forques devant la casa de la dita ciutat per metre més terror e perquè fessen les dites eleccions segons la voluntat del dit portant veus e no segons lurs privilegis e antichs custums (...) ans ab terrors e manaces e plantant e erigint forques e no contrestant certes requestes e apel·lacions ha feta fer altra elecció en forma no acostumada e desviant totalment de lurs privilegis e libertats (...) ab les dites terrors e cominacions la dita jornada ha empetxats los jurats e consell de la dita ciutat que no han poguda fer la dita elecció de consell e jurats e altres officis per l'any present segons llurs privilegis e usos antichs (...) tots els anantaments, presons, arrests, imposicions de penes, ficaments de forques, eleccions de consell e jurats e oficials e tots e qualsevol altres actes fets e enantaments per lo dit portant veus, axí per son motiu que per vigor de la dita letra o per altres, açí com a nulls e ineficaces sien totalment tornats al primer stament". *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1915, vol. 20, p. 114, 115, 140 and 142.
- 106 Carme Batlle, *La crisis social y económica de Barcelona a mediados del siglo XV*, CSIC, Barcelona, 1973, vol. 2, pp. 144-149.
- 107 "per la dita rahó e que la gent stigués pus pla foren fetes, erigides forques a la Plaça Nova e a la Plaça del Blat hoc e hi viu destrall e piló". *Cortes de Cataluña*, vol. 20, p. 315.
- 108 "Dix que per ço com ell testimoni en lo dit temps era en Barchinona e era scriva jurat en la dita cort del vaguer, axí com ses vuy en dia. E lo dit mossèn Guerau de Cervelló, governador de Cathalunya feu fer en moltes places de Barchinona forques, hoc e li dona de parer que a la plaça de Sent Jachme feyes posar lo piló e destrall apte per scapçar e toldre punys. E ell testis viu fer delles dites forques a la plaça Nova e a la plaça del blat, e veyá ell testimoni que tothom en Barchinona anava pla e sens armes, sino que portaven cotas de maylles o cuirasses aquells qui'n tenien, e punyal o dagna qui no passàs de mida e no sap que negun vingués contra les dites ordinacions". *Cortes de*

- 109 Flocel Sabaté, “La Governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya”, *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), p. 25.
- 110 Agustí Duran i Sanpere, *El llibre de Cervera*, Curial, Barcelona, 1977, pp. 350–351.
- 111 “Com lo honrat en Gispert de Guimerà, regent lo ofici de prcuració general en Cathalunya ages feyts penjar II homens que’s deye que foren al avalot dels juheus en camp de la vinya den Pere de Cardona qui és d’aquí al cap de la vila, nos procuram que fossen d’aquí levats e que fossen posats en les forques antigas e les forques que novellament avie feytes en la dita vinya que fossen desfeytes, agem los sayts de la cort del batlle de bastays e dues bèsties que destruiren les dites forques”. ACSG, fons municipal de Cervera, clavaria 5, f. 19v.
- 112 “lo mal any”. Albert Curto, *La intervenció municipal en l’abastament de blat d’una ciutat catalana: Tortosa, segle XIV*, Fundació Salvador Vives Casajuana, Barcelona, 1988, p. 213.
- 113 “sien posades e fetes unes forques per terror del poble, que no’s comoga contra los regidors de la ciutat per la carestia e fretura que és en la ciutat de present”. ACBEB, Fons municipal de Tortosa, Provisions, 11, f. 11r.
- 114 Josep-David Garrido, “Elx i Crevillent sota la senyoria de la ciutat de Barcelona (1391–1473)”, *La Rella*, 11 (1997), pp. 11–36.
- 115 “ostaler qui acullirà en lo seu ostal alcun hom sospitos o odiós o de mala fama”. Pedro Ibarra, “Elig. Noticia de algunas Instituciones y costumbres de la Edad Media”, *III Congreso de Historia de la Corona de Aragón dedicado al período comprendido entre la muerte de Jaime I y la proclamación del Rey Don Fernando de Arntequera (julio de 1923)*, Excma. Diputación Provincial de Valencia, Exmo. Ayuntamiento de València, Valencia, 1928, vol. 2, p. 41.
- 116 “Ordena lo consell present e consistent lo desús dit honrat procurador que forques sien fetes en lo pla camí de la vila de Oriola e en lo pla camí que va a la vila d’Alacant a càstich e correcció de mals homens e que per altres ne servexquen d’eximble e assignar lo dit consell a fer aquelles en Berthomeu Ferri e que sien fetes e obrades de pedra del pla ab peons de la obra del mur e que la messió e manobra, ço és calç e aljeps ço que y sia mester e comprar e pagar lo obrer e lo mestre que aquelles farà pague lo clavari de la dita vila”. Ibarra, “Elig”, p. 41.
- 117 “en sdevenidor que lo dit consell [no] sia tengut ne obligat a fer forques ne tenir aquelles en un dret com sia acte quis pertany fer a la senyoria de la dita vila”. Ibarra, “Elig”, p. 41.
- 118 Fabrizio Titone, *A Companion to Medieval Palermo. The History of a Mediterranean City from 600 to 1500*, Brill, Leiden–Boston, 2013, p. 512.

5 The death penalty in the royal “plenitudo potestatis”

The monarch was urged to consolidate his royal power and, thanks to his jurists, could find in Roman law the legal justifications to reinforce a supreme position over society as a whole. In 1342, Peter the Ceremonious did not hesitate to proclaim his leading position in Catalonia after God: “sovereign lord after God in Catalonia”.¹ This was an approach that theoretically had no restrictions, as the sovereign defined himself as being above the law, but which he would obey, as he emphasised in 1380, “si et in quantum volumus”.² The law, formally, did not restrict the king, as he showed by applying the expression “princeps a legibus solutus”, thus procuring degrees of independence from the existing laws.³ It was a logical attitude as a “general and supreme prince”⁴ who received his power from God and who was really the source of legislation, enjoying independence from the law.⁵ This was the same European context that extended the supreme power initially reserved for the emperor⁶ to princes and kings, as Pope Clement V recognised, with nuances, in 1313.⁷ This idea found support in philosophical and theological arguments based on Aristotelian reasoning that “the regime of one alone” better fitted the ontological order of the universe.⁸

The Constitutions of Catalonia, the supreme legal norm which, arising from the General Parliament or Corts, affected all the country, really emanated from the sovereign, who was the formulator and so appeared using the royal “we”.⁹ Nevertheless, in reality, this supreme legislation was the result of the negotiation with which the estates had pressed the monarch in the same parliament.¹⁰ They looked after their own interests but progressively invoked their status as representatives of the country.¹¹ Thus, there were severe limits to the claims of the supreme power of the king, given that he lacked financial resources and the estates were able to negotiate and put pressure on him.¹² Full backing for this was found, precisely, in the legal, philosophical and theological formulations that did not understand the “potestas” of the sovereign as a “dominatio”¹³ but rather as a duty to equity and justice,¹⁴ the result of a specific and agreed popular cession,¹⁵ as stated in the political models promoted by the urban elites.¹⁶ Precisely

herein lay the basis for balancing the representativeness the estates aimed for over the “terra”,¹⁷ so giving a specific political and representative content to the “nació catalana”,¹⁸ separately and with a duality towards the monarch.¹⁹

The sovereign negotiated with the estates while maintaining a discourse of pre-eminence that emphasised his position as the supreme guarantor of justice. The king, thanks to his supreme position, could act for the benefit of individuals—usually in exchange for special financial donations—, correcting his ordinary officials, which, in short, harmed the royal jurisdiction and the Crown itself.²⁰ Given this perception, rather than the ordinary jurisdiction, people usually preferred other formulae for resolving conflicts, such as the resort to the solidarities of the factions.²¹ The king, lacking resources, often resorted to all kinds of remissions, licences and dispensations, which tarnished the ideal of a sovereign promoting justice, and facilitated the vision of a monarch obsessed with obtaining financial resources. This suspicion was accentuated, especially among the municipalities, as the monarch increasingly resorted to issuing general remissions. With these, in exchange for financial donations, he absolved possible misdeeds committed in some of the conflicts that supposedly or effectively had broken the urban peace.²² This strategy was also followed by the governor, with the same invocation of concern for order in the royal jurisdiction, sometimes even negotiating the emoluments that the king and his high representative would share.²³

These remissions generally specified that “*criminibus tamen de quibus mors seu membri mutilatio infligi debeat*” were excluded from pardons, as stated in Torroella de Montgrí in 1373.²⁴ This was the habitual formula in the general redemptions conferred by the sovereign, or his deputies in his name,²⁵ and that the different royal populations received at one moment or another in the fourteenth century. The towns received these general redemptions in exchange for important amounts to be absolved for disturbances that had broken the urban peace, although on occasions the concession was applied despite the opposition of those affected, because they believed it was not necessary and interpreted that the imposition was really an excuse for the sovereign to demand the corresponding financial compensation.²⁶ This kind of privilege was also similarly repeated in the general redemptions that followed changes in jurisdiction²⁷ or even in similar concessions negotiated and conceded by the sovereign in the framework of the Parliament or Corts, as Peter the Ceremonious detailed in 1380:

It pleases his majesty the king that all the said punishments specified below in the chapter and even all other financial punishments be absolved, as well as the corporal crimes that do not fall among crimes

for which the death penalty or mutilation of a member must be imposed.²⁸

With these concessions and statements, the monarch, whether reinforcing his discourse of royal exaltation or seeking ways to enlarge his fiscal power, insisted on the sovereign jurisdiction awarded to him by the Roman law. Showing this, he emphasised his function as the supreme guarantor of justice and the inseparable capacity to dictate the higher penalties. In reality, the king's full power could even free someone who had been sentenced to death. In 1350, for the visit by the queen to Lleida, Peter the Ceremonious offered remission to the prisoners in the city except for those condemned for the two offences considered most serious, those that went against nature and loyalty to the monarch, namely sodomy and lese-majesty. Faced with the concession, the municipal government objected strongly because it implied freeing thieves, one of whom had already been condemned to death and was awaiting execution "and thus there are some who have been imprisoned as thieves, among the others one who is called Domènec Martí, who has been confessed and has been sentenced to hang".²⁹

The king took these decisions in those places under his jurisdiction. With these measures, he was applying justice and, at the same time, emphasising the importance of physical punishment in the definition of his supreme power. That is why in 1359, reserving this high capacity for himself, Peter the Ceremonious forbade his district officials from commuting penalties of death or mutilation:

his majesty the king has ordered that none of his officials in Catalonia should dare to pardon, absolve nor cancel for money or for any other way graciously any crime for which civil law or the custom of the land punishes with natural or civil death or mutilation of a member, because about this, the mentioned lord denies the power to the said officers and to any one of them.³⁰

This was a way to avoid dispersing a high and indicative royal right and also linking it to the indicators of royal pre-eminence. In this sense, it is not surprising that in the fourteenth century, especially with Peter the Ceremonious and even more so with his son, John I, the use of the death penalty as intimidation contributed to reinforcing the discourse of royal pre-eminence. A wide range of royal orders carried the death penalty. In 1345, it was decreed that no one could marry a maid or daughter from the urban ruling group in Girona—"lady or daughter of a citizen of Gerona"—without the consent of her family, *sub pena amissionis capitis*, that is, "under the sentence the head to lose".³¹ This threat was reiterated, and came to be frequently repeated in royal orders. The sovereign added this severe warning to the orders dictated to his officials. In 1384, to prepare for the

campaign against the county of Empúries,³² the king wrote to some of his vicars warning them that they had to train the militia from the corresponding district under the threat of losing their heads. This placed some officials, like the one in Cervera, in a difficult situation, because the municipal council in the capital of the district (the vicarage of Cervera) refused to send its people as the summons was not from the *Princeps Namque* usage that, through royal privilege, was the only one accepted as valid in the town, as stated in the corresponding protest taken to the king.³³

John I also found invoking the death penalty as a way of demonstrating strength in the relation to his officials. In 1387, he wrote directly to his special bailiff (*algotzir*) ordering him to intervene in the conflicts with Guillem de Montcada in the Camp de Tarragona, Special bailiff, I order you under the faith and nature with which you are held under threat of losing your head, that you are to immediately accomplish the things contained in the letter of commission that I have issued because of the robberies that the noble Guillem de Montcada with his accomplices have carried out and as a result of the reckless licence and welcome which the vicars of Tarragona have given to them against our will. And be attentive that you keep the letter if you want to avoid the punishment that you will suffer if you do the contrary.³⁴

Similarly, the threat to apply the death penalty was repeated in numerous royal orders. In 1400, for example, Guillem Blanc refused to hand over his holding of the royal castle in Bar to King Martin, as he argued with the latter about how to interpret the type of castral holding.³⁵ The king, given this refusal, treated him as having broken a sacrament and homage—“com de trencador de sagrament e homenatge”—and ordered him to hand over the castle to the royal official if he wished avoid a certain death penalty: “We say and order it with all clearness and expressly under the punishment of perdition and death”.³⁶

This was aimed at emphasising the seriousness of the punishable action, so that this could be heightened in moments of increased tension. In 1373, during the conflict with the Church about royal claims over the ownership of the notaries, Peter the Ceremonious banned everyone under his jurisdiction from signing instruments or contracts before notaries or scribes from the Church, under the threat of losing their lives and their goods: “sub pena amissionis corporis et bonorum”.³⁷ Similarly, in 1378, reprimanding the clergyman Arnau Bosc for his notarial activity within a territory under royal jurisdiction, the king ordered his expulsion or, in case of non-compliance, that he be drowned, as he informed the bailiff of Girona: “Let him know that within three days he must exit from our domains,

and if not, you will drown him in the case you can catch him”.³⁸

In this sense, the use of the death penalty to intimidate was a weapon in the king's hands. Thus, when in 1374, there was a clash between the monarch and the archbishop of Tarragona over the jurisdiction of the city, the former not only ordered that no one obey the latter but also warned that the death penalty would be applied to anyone who spoke badly of the consuls in the city—*ultimo supplicio condemnnetis; sententia capitali*. This clearly shows the alliance between the municipal government and the crown against the archbishop.³⁹

So, progressively over the fourteenth century and more so by the end of this century and the beginning of the fifteenth century, the royal chancellery used very expedient expressions when issuing orders and instructions, including, for non-compliance, the threat of losing the post, being punished with heavy fines or incurring the sovereign's wrath.⁴⁰ In that context, the death penalty was invoked from the chancellery as a threat that was not really marking a situation of danger or tension but more the importance of what was being managed. Thus, in 1399, when the city of Girona and King Martin agreed an ambitious plan to reintegrate a large part of the jurisdictions alienated over the previous years back into the royal jurisdiction,⁴¹ all the royal officials in charge of the jurisdiction, beginning with the governor general and continuing with the royal representatives in the territory, the vicar and bailiff of Girona, were immediately informed of the agreements. They were threatened with death if they failed to comply. It is clear that there was no risk of controversy or discussion nor any reason to fear that the leading royal representatives would not comply with the orders of their lord, the king, but the importance that it was intended to give to what was being prepared required the order to be promulgated under the threat of the death penalty:

he ordered that the governor general of Catalonia and his delegate, the vicar, subvicar and bailiff of Girona and all the other officials of the said lord and their present and future successors and their deputies must obey and follow and also oblige to obey and follow the said present chapters and the said privilege and the things contained in these and each of them have and observe and have to observe these norms inviolably doing nothing against them for any way or reason, according to the confidence and nature duty to the said lord or their successors as well to the subjects, falling in death penalty in case of default.⁴²

It was hoped to achieve greater force through the building of scaffolds when special social tensions arose. That is why gallows were built and exhibited for specific purposes. There was a wave of attacks on Jewish neighbourhoods in 1348 provoked by the Black Death that

spread all over Europe.⁴³ In the Catalan town of Tàrraga⁴⁴ these riots against the Jews were very serious.⁴⁵ They led to so many deaths that mass graves had to be prepared for the dead Jews⁴⁶ and, as we have seen, the procurator general of Catalonia, as the king's high representative, intervened. He imposed the usual measure, a general redemption,⁴⁷ but also a special one: a coercive action through erecting gallows in early 1349⁴⁸ expressly to punish the guilty.⁴⁹ These gallows remained, with an exemplary purpose to intimidate until 1354 when the monarch gave permission to the municipal authorities to destroy them (see [Figure 5.1](#)):

Paciariis et probis hominibus dicte ville concedimus ac plenaria licencia elargimur quod huius vigore possint ac sit eis permissum impune diruere illa patibula que Guilabertus de Corbaria, quondam, Cathalonie procurador, erigi seu construi fecerat prope villam Tarrege memoratam ocassione insultus et invasionis olim contra iudeos ipsius ville per aliquos temerarie subseque, ut in eis culpabiles punirentur.⁵⁰

Figure 5.1 Drawing depicting gallows in the third book of privileges of Tàrraga holding the document with which in 1354 Peter the Ceremonious permitted the local authorities to demolish the gallows that were put up following the invasion of the Jewish quarter (ACUR, Llibre de Privilegis III f. 9r)

Some decades later, there was a series of assaults on the Jewish ghettos, which spread everywhere from August 1391, giving rise to a confused popular revolt with millenarianist overtones against abusive patricians and corrupt clergymen.⁵¹ The general governor of Catalonia attempted to stop the rarefied social climate worsening, he took action personally, first in Lleida, where eight people were taken to the gallows on the 17th of November. He then went on to the convulsive Catalan capital, which he entered on the 6th of December with numerous armed horsemen. His first measure, on the 13th, was to build three scaffolds in the central squares: *Nova* (New square), *Blat* (the Wheat square) and *Santa Anna*. The following day, he had eleven people hung and quartered, and on the 22nd, the king ordered the execution of another eleven, the executions continuing into January.⁵² Visually, everything began with the building of the new gallows in central places, with the aim of controlling society through fear and, at the same time, using this same way to exalt the monarch.

The aim of all these actions always was to penalise crime and display the royal function of maintaining law and order. Consequently, the death penalty was used when royal authority was questioned. In the revolt in Barcelona in 1285,⁵³ after agreeing the necessary urban support, Peter the Great decided to apply capital punishment to the leaders. This was clearly a sovereign decision of

power by the monarch, as Bernat Desclot narrated:

And thus that night the king went with his knights and with his citizens of Barcelona and early on the morning of Easter day, after many things that he had said and done in and out of the city, took the said Berenguer Oller and with great honour he was thrown out of the palace, tied behind the tail of a mule, with seven of his men who went behind him with the ropes round their necks; and they were taken through all the streets of the city and were then hung by the throat all of them from the same olive tree, Berenguer Oller being on the top of them.⁵⁴

The narration allows us to glimpse the unusual nature of the case, because it does not mention the habitual gallows, and leaves royal power clear. The monarch could, on his own, determine who had to suffer the death penalty. In the legal definition of the sovereign's power, there was no other limit than the Christian sense of justice. In practice, he just needed the corresponding political support, as is discernible here in the mention of the various contacts that protected the monarch.

The internal crisis faced by Peter the Great was conditioned by the tense external context, in which the intervention in Sicily opened the doors for the excommunication of the monarch, interdiction of his domains and invasion of the territory.⁵⁵ Attempting to avoid the proclamation of religious exclusion in his own domains, the king warned his officials with all his power, and ordered the immediate application of the death penalty to churchmen: "*si aliqui legati, prelati seu religiosi aut aliqui cuiuscumque condicionis existant invenirentur intrantes in terram nostram, capiatis eisdem et pena capitis puniatis*".⁵⁶ On inheriting the tension after 1285, his son and heir, Alfonso the Liberal⁵⁷ continued the same policy of force and ordered his vicars to apply summary and immediate justice, *custodiat et custodiri faciat per totam vicariam vestram ne aliqui fratres menores aut aliqui alii possint intrare terram nostram rationibus supradictis. Et si forte intrarent terram nostram ipsos incontinenti omni mora remota capiatis et decapitetis non expectato super hoc a nobis alio mandato prout iam per alias literas nostras vobis et aliis officialibus nostris dedimus in mandatis*.⁵⁸

With these expressions, the king was showing that the sovereign had, in himself, the power to pronounce capital sentences. However, this was not an arbitrary attitude. Francesc Eiximenis explained it by imagining that in the court of the king of Leon, one day the king demanded that someone he hated be killed: "Is there someone who will kill him? Is there someone who will kill the traitor? Cut his throat! Cut his throat".⁵⁹ However, from his court a man replied: Lord, there is no one who will kill him or cut his throat, because the

law and the legislation of the land prevent it and these things are stronger than you and more in charge than you and also order to you, saying to you that nobody can be killed if he has not been listened to and during some time had received legal defenses and finally had been sentenced according to the law.⁶⁰

So, the king could not be arbitrary, and the law ruled over him, as this tale by Eiximenis concludes: “Long live the law! Long live the law! and king shut up and learn to govern!”⁶¹

The death sentences applied by the king had to be properly justified. The most serious case was if there were a rebellion and denial of due obedience. This was apparent in the struggle between Peter the Ceremonious of Aragon and James III of Majorca. The king of Aragon demanded that the king of Majorca and count of Roussillon and Cerdanya acknowledge that they were subordinate to him. The latter rejected this, which is why Peter accused him of contempt⁶² and decided to try to merge the territories held by James fully into the Crown of Aragon through a war that began with the invasion of the counties in 1344.⁶³ Before and after this military campaign they both resorted to capital punishment. This was seen in Perpignan, under orders from the king of Majorca: “on the gallows of Malloles where the honourable Pere Ribera and Pere Arnau, apothecaries, and Pere Arnau, carpenter, were hung by King James of Majorca”.⁶⁴ On the opposite side, the governor of the counties had supporters of James hung: “Guillem de Bellera, governor, had hung, in Puigcerdà, on the occasion of the entry of James of Majorca, fourteen men, that is, six from Cerdanya, and eight from Perpignan, who were from the company of James of Majorca”.⁶⁵ A similar fate awaited several inhabitants of Puigcerdà in 1358 (Ramon Franc, Pere Sala, Jaume Grait and Bernat Castellar) accused of plotting in favour of the son of the dethroned James of Majorca, and of wishing to assassinate Peter the Ceremonious. For this they were imprisoned by the governor of Roussillon and Cerdanya and immediately condemned to death, despite declaring their innocence:

before being sentenced to death, the said Ramon Franc stated, before notary and witnesses, that neither he nor the others knew anything of the said treason and that he swore before God, protesting but not for that did they stop from sentencing them to death.⁶⁶

None of the sovereign’s actions in penal decisions could be arbitrary or dictated by particular political interests. The degree of adaptation to Christian theology and ethics⁶⁷ justified his power⁶⁸ and imbibed the monarchy with a teleological moral⁶⁹ in which the combination of law and justice would not only determine the content,⁷⁰ but also specific legal forms, as obligatory guarantees. Francesc Eiximenis defined this clearly with rhetorical questions about capital

punishment: “And how can any prince give licence to anyone to kill another if it is not through a judicial process, as the prince is not lord of the law but its servant, executor and minister?”⁷¹

These ideas took a specific form after the power struggle between the king and the estates, where each had tried to consolidate their position. In this context, it was not legal guarantees that were emphasised but rather the power of the sovereign to dictate rapid capital sentences in different scenarios. Political motivation was behind the royal will in all cases, so the monarch insisted on using the death penalty to demonstrate his high position only when he was confident enough about the solidity of his own power base. This explains the ease with which Peter the Ceremonious sent Bernat de Cabrera, his influential and loyal royal counsellor to the scaffold accused of treason. Cabrera was decapitated in Saragossa in 1364, and the king mentioned this as his own sovereign decision: “we have condemned Bernat de Cabrera to lose his head”.⁷² Previously, the queen also referred to the king’s will when she requested that the heir be diligent in the application of capital punishment in the name of justice:

Dear Heir, the other day I wrote to you because his majesty the king had ordered sir Berenguer d’Abella to kill Bernat de Cabrera and I wrote to you demanding that this justice of death was done by you in name of his majesty the king.⁷³

However, the sovereign did not resort to arbitrary action but rather to applying the law. The charges of treason against the accused had been formally proven, which was why the king handed down the capital sentence, as he himself mentioned to his heir:

Dear Heir, recognising the trial that has been done against Bernat de Cabrera, adult, and in view of the blows and crimes that he has committed against us and our Kingdoms, we condemn him to be beheaded in a way that he dies and in a public place.⁷⁴

In 1366, when the municipal representatives from Vic, who had paid homage to Bernat de Cabrera’s son, Bernardí, repeatedly refused to retract this oath to establish links with the monarch, the latter declared them to be in obstinate rebellion and immediately condemned them to death. There was no need for a summary trial with all the legal guarantees. To the contrary, the simple verification of the refusal by twenty-two municipal representatives was sufficient for the monarch to have them arrested, and they were immediately condemned to death for contempt of the loyalty owed to the sovereign. To emphasise the exemplary aspect, he even ordered his vicar to build special gallows, as mentioned in the previous chapter, with all their elements, to hang the accused in the *Plaça Mercadal* (the Market Place) in the centre of the city. Thus, the king’s power to

impose capital punishment enabled him to ratchet up the tension in the political negotiation, which was his aim. That is why a political pact was finally reached. The local representatives submitted to the king and he promised not to move the city to a new jurisdiction and keep it always in the royal jurisdiction. Once the agreement was reached, the monarch could use his own royal power and immediately modify his first capital sentence for absolution.⁷⁵

Since the nineteenth century, the traditional historiography has interpreted these resorts to the threat of the death penalty as derived from the arbitrary ire of the sovereign and so closely related to each king's character, insisting on such stereotypes as specific, sometimes arbitrary, harshness by Peter the Ceremonious.⁷⁶ However, a duly contextualised analysis of events like those mentioned above allows us to see the use of fear and intimidation through the gallows among the tools the monarch developed in a specific model of government, which included the intimidatory resort to emotions.⁷⁷ Notable among these was a discourse in which the call for a "great terror" formed part of the tools with which he aimed to control his subjects.⁷⁸

The power to inflict political and social terror pursued two aims: better governance of society and a display of superior power by the sovereign. So the ostentation of these had to be forced almost to the arbitrariness, like the *arbitraria potestad* that the historiography has defined in the Castilian monarchy between the twelfth and thirteenth centuries.⁷⁹ Peter the Ceremonious, who was competing with Castile for pre-eminence in the Peninsula,⁸⁰ and became embroiled in an armed conflict with it,⁸¹ included allegedly different behaviour by the respective kings in his discourse of justification. He contrasted the arbitrariness of the Castilian monarchs with the equanimity and concern for the people typical of the Aragonese. According to his chronicle, the former could kill anyone they considered contrary to their interests by sending a royal porter who said "my lord the king sends me to kill you".⁸² This behaviour would be improper by the latter because, according to the words he placed on the lips of his father, Alfonso the Kind, "our people are free and not subjugated like the people of Castile, as they have you as lord and we have them as good vassals and companions".⁸³ In that context, Peter accused his stepmother, the Castilian Eleanor, of pressing King Alfonso give their son—Prince Ferdinand, half-brother of Peter—benefits, although these harmed the Crown,⁸⁴ and also to promote an ominous death sentence against the counsellor, Llop de Concul, a good civil servant ("Because he had loyalty and truth to himself").⁸⁵ This came after serious but baseless accusation that the counsellor wanted to harm the queen to the extent that his incantations were the reason why she could not have more children. This linked to Peter's accusation that

Eleanor of Castile was only concerned about her own offspring, both the ones she had and the others she wanted, at the same time working against the children from her husband's first marriage⁸⁶: they acted against the said Llop, and he was tortured, and finally, sentenced to death, that is when he was drawn and hung as they said that he had cast spells over the queen who could never again have children.⁸⁷

These accusations suggested that Queen Eleanor of Castile had negatively influenced the judgement of Alfonso the Kind. Peter the Ceremonious thus aimed to apologise for a capital sentence dictated by his father that would have been unfair as it was given to someone who did not merit it. However, at the same time, if the monarch could hand down these sentences it was because this power belonged to him as sovereign. So, his power was highlighted when he showed that he had the ability to flaunt his power and inflict terror on society through the punishment of those who had infringed the norms or gone against the king's will. Therefore, Peter, who wrote his royal chronicle in the first person with the intention of making it into a compendium of political propaganda in his favour,⁸⁸ included tense situations from which he appeared victorious, flaunting a great facility to dictate, order and apply death sentences. Displaying the power to apply the harsh death penalty was interpreted as praise that improved the image and memory of the monarch's power. In 1344, during the war to retake the kingdom of Majorca, those who supported the Majorcan king were considered traitors and a simple invocation favourable to him was enough to merit the death penalty applied as cruelly as being quartered: "they came out of the houses all armed, shouting—Aragon!, Aragon!—with the purpose that anyone who shouted 'Mallorques!' was quartered".⁸⁹

The same chronicle by the King Peter the Ceremonious is even more forceful when it shows how the sovereign punished those who had not only rebelled against him but had also humiliated him, as happened with the rebels joined in the so-called *Unió* (Union) in Valencia.⁹⁰ This was not only about issuing death sentences but also punishments that increased fear. Thus, Peter ordered that the death penalty be applied in a way that made suffering worse according to the seriousness of the crime, culminating with those who were given the nastiest punishment, they were condemned to die by drinking molten metal from the bell they rang to call the meetings where they plotted the revolt:

And some of them were dragged and hung, and other ones only hung. Some of them, according to their merits, had to drink the molten metal from the bell made by the Union, which was in the room of the City Council, close to the Cathedral. When this bell was rung, the

supporters of the Union as well as all those who took part in their acts, gathered immediately, which is why it was fair that who made the bell drank its molten liquor.⁹¹

So, the punishment was made to fit the subject and type of crime. In putting these explanations into the chronicle, the king was addressing his circles and the future, because he was aware that he was writing it to leave proof of the power he had enjoyed.⁹² In any case, this behaviour fitted the sovereign's right to punish, because these same culprits in Valencia were accused of committing many crimes: "they did many and diverse crimes".⁹³ There was no arbitrariness, quite the opposite: these acts consolidated the monarch as the powerful and feared guarantor of justice. He defined the objective himself: "so that we were powerful to do justice and punish those who were the principal and most culpable".⁹⁴ To this end, the king investigated the crime—he did enquiries (*enquestes*)—and based on this evidence, he established the punishment. The monarch explained this based on the repression of the revolt of the Union in Saragossa, highlighting the importance of the investigation and that it was he who handed down the death sentence in the royal palace⁹⁵: "after having made our enquiries, we give corporal sentences against thirteen people from the city with confiscation of assets for having committed crimes of lese majesty and that these sentences were given personally in the said Aljaferia".⁹⁶ The royal sentence led to the immediate application of capital punishment for the condemned.

The key was in the king's supreme power to proclaim justice, and that this was in line with the contexts of a society defined as Christian and marked out by Romanist legal parameters. Assuming this position, the sovereign could act with full forcefulness, even without resorting to the legal formulae in extreme situations. In 1363, Peter the Ceremonious explained that he himself had ordered the murder of his half-brother for justice ("per justícia"). Prince Ferdinand would have committed unfair acts, including the desire to take the throne from his half-brother, and, by resisting arrest, he placed the lives of the king's special bailiffs in the royal chamber in danger, which is why Peter ordered them to kill him—"fem-lo occiure"—, invoking the justice: You must know that we order our special bailiffs to arrest Prince Ferdinand because of his very bad deeds against us looking for our disinheriting, which I do not want to explain because of the link he had with us. Nevertheless, he fought back against our special bailiffs and tried to kill them, and given that he was in our room and in any case he wanted to be arrested, we ordered to kill them by justice, as he merited, because the land he had belonged to us and our crown, according the inheritance gave to him by our father the king, and because of the crime committed by him.⁹⁷

The factions inside the royal household helped to encourage a climate of conspiracy and tension. This grew exponentially from the second third of the fourteenth century, reaching a very serious and ingrained level in the last quarter of the century, to the point where there was fear of losing one's life.⁹⁸ On the death of Alfonso the Kind in 1336, Queen Eleanor quickly fled to Castile out of fear of reprisals from her stepson, the new king, Peter the Ceremonious.⁹⁹ However, she was finally assassinated in 1359 on the orders of her nephew, King Peter I of Castile, thus succumbing to the tensions within the Castilian royal family.¹⁰⁰ When Peter the Ceremonious died half a century later, his last wife, Sibila of Fortià, left the king in his death throes and also fled from the royal palace in Barcelona with her loyal followers, in fear of his successor, Prince John.¹⁰¹ This flight, which had a strong impact on the population¹⁰²—"recent information has arrived saying that our Lord the King is dead and the our lady the Queen has fled",¹⁰³ led her to seek the protection of Sant Martí castle which the queen's brother had acquired a few years earlier.¹⁰⁴ Here they were besieged by Prince Martin, the new king's brother, who entered it the day after the king's death, in January 1387.¹⁰⁵ John I accused prominent companions of the queen of lese-majesty for having abandoned the dying king. They were all transported to Barcelona in a humiliating way, and Berenguer d'Abella and Bartomeu de Lunes were executed, with their bodies later quartered. This harsh punishment channelled existing tensions between the new king and the old royal counsellors.¹⁰⁶ An anonymous chronicle very critical of John I concluded that this behaviour led the population to feel fear and, with that, rejection and loathing towards the new king, so that his power came closer to arbitrariness than to the function of guarantor of equity:

At the beginning of his government, he ordered the arrest of the said stepmother and nobles and knights and many people of lower rank, who were amputated, quartered, burnt and hung. And the said stepmother was martyred, which was so terrible that everyone felt fear and loathing.¹⁰⁷

Tensions between kings and those around them meant that in neighbouring Castile, the members of the royal family and the leading people in the court lived in fear—*espanto*—of the monarch, because he was quick to threaten the lives of the barons and order their deaths.¹⁰⁸ In its duty as a guarantor of justice, royal power included extreme punishment and vengeance, with no other limit than the king's own will.¹⁰⁹ Basing the position of the monarch on sufficient vigour, the Romanist jurists could justify this and, wrapped in the invocation of the common good, frame it in the sovereign's own absolute royal power ("poderío real absoluto"), as defined in Castile in the fifteenth

century.¹¹⁰ Thus, among the traits that reinforced the consolidation of royal power everywhere was the capacity to apply the death penalty. The Romanist legal support for the position of the prince over the society, the integration of emotion into the discourse of power over the population and the conviction that fear—terror—shaped human behaviour were intertwined. From this perspective, the death penalty was an instrument at the disposal of the monarch who, as usual in the Middle Ages, was in permanent dispute with the other powers. Thus, depending on the balance of power, the death penalty sometimes fulfilled its purpose merely by being invoked, while at other moments, it had to be seen to be applied. So, it is very understandable that, in the Crown of Aragon, the king's power to display the application of the death penalty was especially visible at the two ends of society. Sometimes this involved punishing the weakest but even more so, members of the aristocracy very close to the royal household were penalised. In other words, it affected sections of society who lacked the security of groupings like municipal solidarity or the established ordinary justice network. That is why there was a constant trickle of very important members of the royal court who lost their heads. We have mentioned Llop de Concud under Alfonso the Kind, Bernat de Cabrera under Peter the Ceremonious, and Berenguer d'Abella and Bartomeu de Lunes under John I. In contrast, the aforementioned threat of death over the councillors from Vic, even with the display of the scaffold, mutated through negotiation. In this same context, the sovereigns rarely interfered in the ordinary justice except when they gave distorting special remissions.¹¹¹

As this was a political negotiation, the king could reinforce his position without having to apply the death penalties. When John I died in 1396,¹¹² there were very strong tensions between the main cities in the Crown, especially Barcelona and Valencia, and the king's counsellors, who were accused of having plunged the country (*la terra*) into poverty and even of conspiring against the king.¹¹³ Consequently, the king's sudden death¹¹⁴ was followed by the arrest of almost everyone close to him: "counsellors, maids, curials and officers of the our Lord the King John".¹¹⁵ They were individually accused of a large and varied range of corrupt practices, with numerous financial, political and moral failings, which showed up the vexatious behaviour of those who were in such high posts. The accusation culminated by implying that they were indirectly responsible for the king's death, either by depressing him with the poverty in which they made him live and the bad state of political affairs—"for the sadness that came to him for the said poverty"¹¹⁶—or by propitiating his physical deterioration by encouraging him to take part in hunts and other activities that exposed him to adverse weather

conditions: “although they knew very well the delicate build of the said lord, which tended toward dangerous illness and difficulties in case he suffered from rain, wind or other bad weather”.¹¹⁷ Even more seriously, in line with the realism with which religion was experienced,¹¹⁸ the culprits were also held responsible for eternal harm to the king. Due to them having favoured his sudden demise, he could not have had a good death and have prepared for the afterlife¹¹⁹ and so his soul would not have received immediate salvation but would have gone to Purgatory. This accusation was so serious that two of the accused resorted to interviewing the deceased. This freed them from such serious suspicions, either through the dream that the chancellery’s civil servant Bernat Metge had,¹²⁰ or through the interview in Purgatory by the Viscount of Perellós. The latter would have travelled to Ireland in 1397 to cross the entrance to Purgatory in the cave known as Saint Patrick’s Purgatory on Station Island on Lough Derg,¹²¹ as he himself explained in a narrative¹²² that closely recalls the well-known journey by Henry of Saltrey.¹²³ Despite the serious charges, in December 1398, the accused were absolved. In fact, the intended effect was achieved without any executions being carried out, not only through the humiliation of the royal counsellors but also because the leading role played by the city of Barcelona throughout these events consolidated it in a pre-eminent position to influence how the kingdom was run. Similarly, by quickly taking many of the accused into his service, the new King Martin displayed both magnanimity and equanimity that helped directly to strengthen royal power.¹²⁴

The use of the death penalty to consolidate royal power was not intended to be a commonly used arbitrary tool but rather something which might be invoked or adapted according to the circumstances and depending on what might help the king to consolidate power. Thus, when the monarch invoked the death penalty, this was also in the context of the everyday tensions for the consolidation of power. This can be seen in the jurisdictional disputes. In these, capital punishment became one of the monarch’s most powerful weapons in the struggle to reinforce his position in the distribution of powers. When the differences became extreme in 1377 in the above-mentioned conflict over jurisdiction in Tarragona,¹²⁵ which had previously shared between the monarch and the archbishop with a common jurisdictional court presided over by a vicar for each lord, King Peter the Ceremonious was very clear when ordering his vicar to hang his colleague, the archbishop’s vicar and his collaborators: “the said King Peter gave a commission or letter of order to Bernat Manresa at that time his vicar saying that he must hang the archbishop’s vicar with his adherents”.¹²⁶

This type of action showed that the drive to consolidate royal power¹²⁷ was disputed by the other powers who also wanted to reinforce their positions, especially the noble estates and the municipal authorities.¹²⁸ One way or another, they each found their basic justifications in Roman law.¹²⁹ It was precisely the jurists who exalted the judicial capacity of the monarch. James of Viterbo stated that the principal and special action of royal power was to judge: “huiusmodi autem potestas est iudiciaria ac per hoc regalis, quia iudicare proprie pertinent ad regis officium”.¹³⁰ The sovereigns in the Crown of Aragon adopted and proclaimed this. Before the General Parliament or Courts gathered in Monzón in 1383, Peter the Ceremonious claimed that both he and his predecessors had fulfilled their duties as sovereigns. These consisted of three actions which had benefited their subjects: offering privileges, graces and liberties, imparting justice and defending the country.¹³¹

Thus, in this context, the king pronouncing justice became an indicator of sovereign power, which was carried out in a specific court presided over by the vice-chancellor.¹³² Although the Parliament or Courts of 1365 explicitly recognised the latter’s full capacity to substitute the monarch,¹³³ the king sometimes personally dictated justice, especially when he anticipated political advantage from this, for example, when punishing serious cases that often involved capital punishment.

Crimes directly against the crown, such as treason, were usually dealt with in an exemplary way by the monarch. The overseas campaigns, especially in Sardinia, provided motives for the sovereign to refer explicitly to the words he had said when handing down sentences. Thus, in 1369 the subvicar of Barcelona explained that the king sentenced a traitor in Sardinia to be quartered and a spy who had been infiltrated into Catalonia to assist the Sardinian enemies to be condemned to be dragged before being hanged. In both cases, the king personally announced the sentences explicitly through his own lips: on the said 15th March by order of his majesty the King the following justices were done. In one case on Berenguer Mir de Majorca, who confessed that in Sardinia he moved from the side ruled by the king to the part controlled by the Judge of Arborea and then he attempted to ensure that the castle of Cagliari was betrayed, for which the said lord pronounced, with his own lips, the sentence of quartering. And in another case Bartomeu Forcat from the March of Ancona, who confessed that he had been in touch with the said judge and had come to some parts of Catalonia to spy to see whether the navy was being organised here and also to go against his majesty the king and his *res publica*, for which the said lord pronounced, with his own lips, the sentence of hanging and dragging.¹³⁴

Indeed, the sovereign's magnanimity of formally commuting the death penalty for some rebels became another milestone in the display of royal power. In 1410, after the death of the king without a direct heir, the Catalan estates imposed a system to elect the new monarch.¹³⁵ However, after a two-year interregnum, the crown went to the new Castilian Trastámara dynasty, as their candidate was better placed both politically and militarily than the legitimate Catalan candidate.¹³⁶ This led to an unsuccessful rebellion by the latter, Count James of Urgell, who was easily beaten by the new king, Ferdinand I.¹³⁷ The defeated count spent the rest of his days in prison,¹³⁸ the sentence having been announced by the king in 1413 as a show of his magnanimity, because he renounced the death penalty for James and his family although their offences merited high punishments:

We, moved more by mercy than by the rigour of justice for the said James we have pardoned the natural death, mutilation of members and perpetual exile from our reigns and the lands, and his wife, mother and sisters from the said death, mutilation and exile and even prison; but we have the said James imprisoned and well-guarded so that he purges the punishment of his horrible sins.¹³⁹

The king could display such clemency because he was the guarantor of justice, as he stated before the General Courts, as we have seen. Accordingly, he intervened personally when a crime not only affected the due obedience but also when it had provoked great social upheaval. Then, after the serious pogroms of the summer of 1391,¹⁴⁰ the monarch handed down specific sentences, as in the following January when, in Barcelona: "a sentence of death was given by his Majesty the King to eight people".¹⁴¹

Carme Batlle suggests that the local rulers sought to gain this royal power because it offered them the ability to intimidate their subjects. Thus, when there were disturbances in Barcelona due to a serious shortfall in cereal supplies between June 1333 and June 1334,¹⁴² the municipal leaders could have had in mind how the king had crushed the revolt by Berenguer Oller in 1285 through death sentences. It is true that a trial was held in 1334 presided over by the king's high representative in Catalonia, Guillem de Cervelló, officially *gerenti vices procuratoris in Catalonia*,¹⁴³ accompanied by the municipal representatives. This quickly led to ten death sentences. With a clear aim of intimidating the population, these executions were spread around the city as part of the display of capital punishment. The culprits were hung in pairs, one pair from the scaffold built expressly in the emblematic *Plaça del Blat* (Wheat Square) and the other three also in central places, especially at the city gates.¹⁴⁴

This judicial action by the sovereign's plenipotentiary high representatives was repeated from the last quarter of the fourteenth

century, using the display of royal power they held to quell the increase in social strife. Two figures played this role. On one hand, there was the officially named *gerens vices gubernationis generalis in Cathalonia* (in Catalan “portant veus de la general governació a Catalunya”) who was the real and specific governor of Catalonia, as he was commonly known, and who headed his own administration of justice over all the country.¹⁴⁵ On the other hand, there was the general governor over the whole of the Crown of Aragon. He used his judicial power in specific cases, especially when he was travelling from place to place, he was physically in the location of the crime. He acted with the help of his own chancellor and he always generated considerable interest because traditionally the post was held by the heir to the throne. Thus, in 1391, the General Governor, Prince Martin, John I's brother and successor, displayed his full range of legal powers when he applied a capital sentence in a case that had generated a great commotion in Barcelona. There had been an attempted robbery in the house of the notary, Berenguer Badorc, under cover of darkness, treachery and threats. The accused later had to be seized by the popular militia after seeking refuge in a neighbouring jurisdiction.¹⁴⁶ Explicitly:

A sentence was given to the above-mentioned man who was arrested for the things done to the above-mentioned Berenguer Badorc by the Lord the Duke, who, as was said, was present in the city and, present, the said Lord was seated for the court in the lower chamber of the lesser palace of his Highness the King, he was sentenced to lose his head and it to be cut from his shoulders.¹⁴⁷

The serious tensions at the beginning of the fifteenth century, with the towns and cities split between harshly antagonistic factions,¹⁴⁸ were dealt with through governors of the territories or even viceroys specifically designated by the sovereign to represent him in particular places with the task of pacifying them thanks to his explicit authority.¹⁴⁹ Very often, these royal delegates aimed to use traditional methods that were beneficial for their coffers, such as the general redemptions, although the pressure from the municipal governments and the tense situations led them to act more directly. In that context, the death penalty could be interpreted as an effective tool for intimidating and appeasing tensions. However, this could even be seen as arbitrary give the harshness with which the governor of Aragon applied two decapitations and three hangings in Teruel at the turn of the century,¹⁵⁰ or the speed with which the governor of Majorca acted against some of the accused in 1408.¹⁵¹ That same year, the royal governor of Valencia was assassinated, to which the king responded by applying death sentences.¹⁵²

Anyway, the power of the king's high delegates should not be

confused with the king's own. Explicitly, and especially in distant domains, the arbitrariness of the governor was criticised. In 1421, the local representative of the city of Cagliari (Sardinia) reported to the king that the distance from the royal court facilitated the unreasonable behaviour of his high representative, the governor:

The governors of Sardinia, benefited by the mobility and distance of his Majesty the king regarding to the present his castle [of Cagliari], have done much damage, arrogance and grievances both to the inhabitants of Cagliari and foreigners, and those oppressed, harmed and offended by them have not been able to resort to your royal justice, against law and justice.¹⁵³

This complaint was submitted to the same General Courts in which the king accepted to distinguish between his own superior power and that belonging to his representatives, according to the proposal from the estate of barons, knights and lords of Sardinia. The scope of the measure was that any representative of the king cannot pronounce a death or mutilation penalty on any baron or knight without a signed document of confirmation from the king:

It is approved that neither the viceroy, governor nor any other official of the kingdom of Sardinia can execute to death or the mutilation of the members of any baron, knight or squire without consulting the king and having a response signed by the hand of his vice-chancellor. This pleases the King.¹⁵⁴

The governors' courts worked through a stable administrative structure taking on ordinary judicial functions¹⁵⁵ at the same time that the governors intervened in issues like public order. Both aspects led to repeated tensions with the municipal governments. These claimed the ordinary jurisdiction, which was also royal but interpreted as being in the municipality's own orbit. This tension was greater in a city as severely fractured politically as Barcelona was, where the governor was characterised for giving support to the alternative sectors against the ruling oligarchy.¹⁵⁶ In this context, the exercise of justice and notably, the application of capital punishments, became points of friction with the local government complaining that the governor had exceeded his powers. A case in point happened in April 1442, when the governor had two people arrested on a ship that had just docked in the city. They were accused of a murder that had gone unpunished, for which they were hung on the gallows. The city council protested to the queen alleging that the governor did not have the authority to intervene on the ship because it was bringing foodstuffs to the city and so enjoyed the guidance of, and was linked to, the local government. Furthermore, the governor had used his residence in the lesser royal palace as a prison, without being authorised to do so.¹⁵⁷ In June 1443, the governor and the city again

clashed over a similar case.¹⁵⁸

On the other hand, in the context of the group solidarities of late-medieval society,¹⁵⁹ the monarch concerned himself with applying strong and exemplary judicial protection to those under his explicit aegis. This was especially so of the domestics in the royal house, a position that was not really equivalent to any specific post but more of a privilege, appreciated and spread in the second half of the fourteenth century, precisely for the inherent social distinction and royal protection that it supposed.¹⁶⁰ Consequently, in Barcelona in 1370, the king imposed a death sentence in a case in which the victim was assigned to the royal wine cellar and was thus under the sovereign's specific and special protection:

on the 23rd of the month of September of the said year of 70 we hung Francesc Roca, second-hand clothes seller, who was found guilty of the death of Riusech, cellarman to his majesty the king for which his majesty the king sentenced him to hang.¹⁶¹

The same Roman law that was behind the sovereign's supreme power in judicial questions also defined a legal system based on guarantees. Thus, the legal structure around the monarch, including his Audience and those of the governors, had to conform to guarantees that contradicted the speedy application of capital punishment, although this swift action was designed to make it exemplary. In 1333, the General Courts approved the need for guarantees in all the cases that included torture or capital punishment.¹⁶² In this sense, in 1393, at the request of the municipal government of Perpignan, royal capital of the counties of Roussillon and Cerdanya,¹⁶³ and remembering the law ("*secundum ius comune et constitutionem Cathalonie generalem editam per dominum Regem Alfonsum*"), John I warned that the governor or his deputy could not use torture or the death penalty in these counties without assigning legal defence: "that the governor, his deputy, as well as his successors shall dare to proceed with death or torments against anyone without the guarantees".¹⁶⁴

In practice, royal power to pronounce capital sentences came up against the same limitations as royal executive pretensions: the sovereign could not take over cases in which the full power was in the hands of another lord. Even more so, if he wanted to remove trials from his own domains, he tended to be immediately contested by the municipal powers, who defended the working of the ordinary royal justice, considering this closer to their interests, and claimed that the intervention of the king hid more financial interests than any love of justice.¹⁶⁵ To consolidate these limitations, during the fifteenth century, the General Courts reduced the room for manoeuvre and the appropriation of trials by the governor.¹⁶⁶

The Crown's power to hand down death sentences thus took on a specific meaning, which could also be applied to legislative tasks. The sovereign function was reflected in the possibility of resorting to capital force if the monarch considered this necessary. In 1375, while holding the Parliament or Corts in Lleida, Peter the Ceremonious issued a *pragmàtica* law with which he sanctioned petitions presented by the estates. Among these there was the death penalty for recidivist pimps who tried to hide:

If anyone is found who has a female in the brothel, or lives from such bad earnings, immediately in the city, town or place where such badness be perpetrated, they will be whipped and broom beaten on crossing the streets, as a public go-between, and then they will be exiled; in the case after they will be found, they should be hung by the neck so that they die, with no favour or mercy and that no official may change that punishment for another, nor give them favour nor favourable remission for money.¹⁶⁷

These measures were based on the authority of the king, who issued the corresponding law, although this arose from the General Courts, which added other meanings to the legal punishments. These were raised as petitions shared with the estates, who also considered that the death penalty was a way to apply the *terror* necessary so that members of society obeyed the social order out of fear of harsh punishment. This gave the invocation of the death penalty a political dimension.¹⁶⁸ Thus it was a severe measure intended to intimidate, and it was promoted not only by the sovereign, but also by those who set themselves up as representatives of the land. This not only showed that an intimidatory legislation that included the death penalty enjoyed wide acceptance among the legislators, but also that the latter did so through their so-called representativeness.¹⁶⁹ Indeed, these were the estates gathered in the General Courts, with everything they represented. From this status that they themselves claimed, they promoted the use of the death penalty with its intimidatory legislative meaning, which the king did no more than approve. So, seeking the exemplarity of the measure, this type of petition that came from the General Courts was repeated. These were always justified by the seriousness of a certain situation and, given that, the need for an exemplary measure like the fear of capital punishment. As one would expect from norms arising from a parliamentary meeting, these combined the wishes of the estates and royal approval.

The same supreme royal authority also sustained the Constitutions of Courts as a superior legal norm, which was drawn up in the General Courts on request from the three estates, being finally formulated by the sovereign.¹⁷⁰ This higher category included some laws that supposed the application of the death penalty in serious cases. A

notable case was that of banking. The sensitivity to the problems derived from bank failures led to regulatory measures being taken in the General Courts for the first time in 1300.¹⁷¹ Nevertheless, the insufficiency of these led in 1321 to a proclamation of another Constitution that established the death penalty for bankrupt bankers who failed to repay the debts owed to their clients:

That any moneychanger who is bankrupted until this present day, or who is bankrupted from here hence, who does not pay his creditors well and fully, what he owes them, to their will, that is those who now before the present day are bankrupted, and those who will be bankrupted during the next year and in the future, be published with the crier for infamous, and for bankrupts, in the places where in they go bankrupt, or will be bankrupted, and still for all the vicarages of Catalonia, and that their head be cut off, and that the possessions of all those bankrupts, straight after they become bankrupt or to those who are already bankrupt, according to the above, be sold by the court from the place where these goods are, or will be, to satisfy their creditor.¹⁷²

The measure was reinforced by the Courts held in Montblanc, in 1333,¹⁷³ while the Courts in Cervera in 1359 extended it to those who protected and sheltered bankrupt bankers who did not meet their debts:

*Si aliquis campsor qui deinceps fuerit abatut se recollegerit in aliqua civitate, villa vel loco alicuius prelati, baronis vel militis vel alterius qui bannitos sustinere sit assuetus ad requisicionem nostri vel nostrorum officialium illa persona in cuius iurisdiccione dictus campsor abatut se recollegerit teneatur eum capere et sibi caput amputare et quod tali campsoni abatut nequeat per nos vel officiales nostros fieri to hoc remissio donec prius suis creditoribus fuerit in eisdem debitis satisfactum.*¹⁷⁴

The text was referring explicitly to the lords who, based on their own jurisdictional capacity, tended to protect those who had offended in other jurisdictions, with the aim of preventing this practice from being applied to bankrupt bankers. So this was reflecting a habitual framework of a jurisdictional barrier, with the consequent correlation of impunity. The General Courts, by taking dispositions from the agreement between the estates, achieved an effectiveness over the whole country that, in contrast, the king had failed to attain. It is clear that, although the monarch consolidated his sovereign position through the power to dictate death sentences, he could not escape from the reality of a country with a spectacular jurisdictional fragmentation. If the king, despite his discourses of consolidation, were obliged to give up his jurisdiction in most of the territory, the power to impose the death penalty would suffer the same fate as the

jurisdiction where this was separated from royal power.

Notes

- 1 “senyor sobirà après Déu en Cathalunya”. AHCG I.1.2.1, llibre 5, llibre 2, f. 39r.
- 2 *Constitucions y Altres Drets de Cathalunya*, II, book 1, title X (*Constitucions i Altres Drets a Cathalunya*), Departament de Justícia de la Generalitat de Catalunya, Barcelona, 1995, 2nd part, p. 37.
- 3 “Each action by the prince acting as a prince ‘*ex certa scientia, non obstante*’, ‘*a plenitudine potestatis*’ has, and the end and in a large sense, some abolitions of the existing law” (*Todas las intervenciones del príncipe “ex certa scientia, non obstante”, “a plenitudine potestatis” implican, en último término y en sentido lato, derogaciones de la ley existente*). Francisco-Luis Pacheco, “‘Non obstante’. ‘Ex certa scientia’. ‘Ex plenitudine potestatis’. Los reyes a la Corona de Aragón y el principio ‘princeps a legibus solutus est’”, *El Dret Comú i Catalunya. Actes del VII Simposi Internacional (Barcelona, 23–24 de maig de 1997)*, Aquilino Iglesia, ed., Fundació Noguera, Barcelona, 1998, pp. 107–109, 115–116).
- 4 “príncipe general y supremo”. José Antonio Maravall, “Sobre la formación del régimen político territorial en Cataluña”, *VII Congreso de Historia de la Corona de Aragón (Barcelona, 1962)*, Talleres de Viuda de Fidel Rodríguez Ferrán, Barcelona, 1964, vol. II, p. 197.
- 5 Aquilino Iglesia, *La creació del Dret. Una història de la formació d'un dret estatal espanyol*, Editorial Gráficas Signo, Barcelona, 1993, vol. I, pp. 433–434.
- 6 Jesús Lalinde, “Las instituciones de la Corona de Aragón en el siglo XIV”, *VIII Congreso de Historia de la Corona de Aragón (Valencia, octubre de 1967)*, Sucesor de Vives Mora Artes Gráficas, Valencia, 1970, vol 2, p. 20.
- 7 Mario delle Piane, “Intorno ad a bolla papale, la ‘Pastoralis Cura’ di Clemente V”, *Rivista di storia de la diritto italiano*, 31 (1958), pp. 23–56.
- 8 Roberto Lambertini, “Governo ideale e riflessione politica dei frati mendicante nella prima metà del Trecento”, *Etica e politica: le teorie dei frati mendicante nel due e trecento. Atti del XXVI Convegno Internazionale, Assisi 15–17 ottobre 1998*, Centro Italiano di Studi sull'Alto Medioevo, Spoleto, 1999, p. 239.
- 9 Josep Maria Gay, “La legislació de la Cort i el control de la seva observança”, *L'Avenç*, 74 (1984), p. 68.
- 10 José Luis Martín, *Las Cortes Medievales*, Historia16, Madrid, 1989, pp. 127–165.
- 11 Oriol Oleart, “La terra davant del monarca: una contribució per a una tipologia de l'assemblea estamental catalana”, *Anuario de Estudios Medievales*, 25 (1995), pp. 596–598.
- 12 Flocel Sabaté, “États et alliances dans the Catalogne du bas Moyen-Age”, *Du contrat d'alliance au contrat politique. Cultures et sociétés politiques dans la péninsule Ibérique à la fin du Moyen Âge*, François Foronda, Ana Isabel Carrasco, eds., Université Toulouse II-Le Mirail, Toulouse, 2007, pp. 325–342.
- 13 Philippe Buc, “‘Principes gentium dominantur eorum’: Princely Power Between Legitimacy and Illegitimacy in Twelfth-Century Exegesis”, *Cultures of Power*, Thomas N. Bisson, ed., University of Pennsylvania Press, Philadelphia, 1995, pp. 310–311.
- 14 Michel Senellart, *Les arts de gouverner. Du “régimen” médiéval au concept de gouvernement*, Éditions du Seuil, Paris, 1995, pp. 20–26.
- 15 Aquilino Iglesia, “La articulación del poder. Un ensayo de tipología

- hispánica”, 23 *Semana de Estudios Medievales (Estella, 1996)*. *Poderes públicos en la Europa medieval: Principados, Reinos y Coronas*, Departamento de Educación y Cultura del Gobierno de Navarra, Pamplona, 1997, pp. 282–283.
- 16 Flocel Sabaté, “La civiltà comunale del medioevo nella storiografia spagnola: affinità e divergenze”, *La civiltà comunale italiana nella storiografia internazionale*, Andrea Zorzi, ed., Firenze University Press, Florence, 2008, pp. 117–125.
- 17 Flocel Sabaté, “L’idéel politique et la nation catalana: la terre, le roi et le mythe des origines (1149-1640)”, *La légitimité implicite*, Jean-Philippe Genet, ed., Publications de la Sorbonne—École Française de Rome, Paris-Rome, 2015, vol. 2, pp. 113–136.
- 18 Flocel Sabaté, “Amar la nostra nació”, *Sardegna e Catalogna “officinae” di identità. Riflessioni storiografiche e prospettive di ricerca. Studi in memoria di Roberto Coroneo*, Alessandra Cioppi, ed., Consiglio Nazionale delle Ricerche—Istituto di Storia dell’Europa Mediterranea, Cagliari—Genoa—Milan—Rome—Turin, 2013, pp. 13–37.
- 19 Flocel Sabaté, “La organización central de la Corona de Aragón cismarina”, *La Corona de Aragón en el centro de su historia 1208–1458. La Monarquía aragonesa y los reinos de la Corona*, José Ángel Sesma, ed., Grupo de Excelencia de Investigación CEMA de la Universidad de Zaragoza, Saragossa, 2010, pp. 408–415.
- 20 Flocel Sabaté, “El veguer a Catalunya. Anàlisi del funcionament de la jurisdicció reial al segle XIV”, *Butlletí de la Societat Catalana d’Estudis Històrics*, 6 (1995), pp. 153–157.
- 21 Flocel Sabaté, “Les factions dans la vie urbaine à la Catalogne du XIVe siècle”, *Histoire et Archéologie des terres catalanes au Moyen Âge*, Philippe Sénac, ed., Presses Universitaires de Perpignan, Perpignan, 1995, pp. 352–356.
- 22 Flocel Sabaté, “L’augment de l’exigència fiscal en els municipis catalans al segle XIV: elements de pressió i de resposta”, *Col·loqui Corona, Municipis i Fiscalitat a la Baixa Edat Mitjana (Lleida, 1995)*, Manuel Sánchez, Antoni Furió, eds., Institut d’Estudis Ilerdencs, Lleida, undated (1997), pp. 426–430.
- 23 Flocel Sabaté, “La Governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya”, *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 49–50.
- 24 AHMTM, parchment 26.
- 25 AHMV, llibre de privilegis X, parchment 192.
- 26 ACUR llibre del consell 4, f. 40v.
- 27 ACGAX, parchment A-429; ACA C, reg, 2295, f. 66r-v; ed.: Manuel Grau Montserrat, “Redempció de les jurisdiccions de la vall de Bianya”, *Annals*, 1 (1984–1985), pp. 105–106, among many others.
- 28 “Plau al senyor rei que totes les dites penes especificades dessus en lo capítol e encare totes altres penes peccuniàries sien remeses e encara los corporals qui no devallen a crimens propis per los quals deguen ésser imposada pena de mort o mutilació de menbra”. *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1901, vol. 4, p. 201.
- 29 “e axí que han•i alguns que hi són preses per ladronicis, entre els altres un que dien Domènec Martí, qui és ja confès e ha sentència a penjar”. AML, llibre d’actes 399, f. 10r.
- 30 “lo molt alt senyor rey ha ordonat que negun oficial seu de Cathalunya no gos relexar, absoldre ne defenir per diners ne per altra manera graciosament algun crim per lo qual de dret civil ho per costum de la terra pena de mort natural ho civil ho mutilació de membre se seguesca exeguir, car sobre açò lo

dit senyor als dits oficials e a cascun d'aquells tol lo poder". ACUR, llibre de la cort del batlle, 1, f. 9r.

- 31 "doncella o fiyla de ciutadan de Girona"; "sots pena de cap de perdra". AHCG, Llibre Verd, f. 70v; ed.: Christian Guilleré, *Llibre Verd de la ciutat de Girona (1144–1533)*. Fundació Noguera—Ajuntament de Girona, Barcelona, 2000, p. 341.
- 32 Francisco Monsalvatje, *Los condes de Ampurias vindicados*. Imprenta y librería de Ramón Bonet, Olot, 1917, pp. 202–206.
- 33 ACSG, clavaría, 18, f. 83r.
- 34 "Algutzir, manam vos sots la fe e naturalesa de que'ns sots tangut e sots pena del cap a perdra, que en continent exeguiats de fet les coses contengudes en la letra de comissió que y havem feta per rahó de les robaries que lo noble en Guillem de Montcada ab sos còmplices han fetes e per rahó encara de la temerària licència e acuylliment que'ls veguers de Tarragona lus han dada e fet contra voler nostre. E guardats que servets a la letra si volets squivar la punició que encorriats si fayats lo contrari". ACA C, reg. 1944, f. 61v.
- 35 Flocel Sabaté, "La tenencia de castillos en la Cataluña medieval", *Alcaldías y fortalezas en la España medieval*, José Vicente Cabezuelo, ed., Editorial Marfil, Alcoy, 2006, pp. 106–135.
- 36 "vos dehim e us manam a certa sciència e expressament sots pena de perdicció e de mort". ACA C, reg. 2302, f. 55r.
- 37 Josep Maria, Pons Guri, "El conflicte del notaria de Girona", *Recull d'estudis d'Història jurídica Catalana*, Fundació Noguera, Barcelona, 1989, vol. 1, p. 30.
- 38 "dats-li comiat que dins III dies sia exit de nostra senyoria ab cominació que, si no'n ix, que'l negarets, si haver-lo podets". ACA C, reg. 1261, f. 135v; Maria Teresa Ferrer i Mallol, "Notariat laic contra notariat eclesiàstic. Un episodi en la pugna entre ambdós a Girona (1347–1380)", *Estudios Históricos y Documentos de los Archivos de Protocolos*, 5 (1977), p. 32.
- 39 AHT, Paper manuscrit caixa 7, document 9.3.
- 40 Flocel Sabaté, "L'abus de pouvoir dans la Couronne d'Aragon (XIII^e–XIV^e): pathologie, corruption, stratégie ou modèle?", *La pathologie du pouvoir: vices, crimes et délits des gouvernants. Antiquité, Moyen Âge, époque moderne*, Patrick Gilli, ed., Brill, Leiden–Boston, 2016, pp. 307–308.
- 41 Flocel Sabaté, "Regnat de Martí I: el govern del territori i els bàndols", *Martí l'Humà. El darrer rei de la dinastia de Barcelona (1396–1410). L'interregne i el Compromís de Casp*. Maria Teresa Ferrer, ed., Institut d'Estudis Catalans, Barcelona, 2015, pp. 93–96.
- 42 "manant al governador general de Cathalunya e portant veus d'aquell, veguer, sotsveguer e batle de Girona e a tots altres oficials del dit senyor e de sos successors presents e esdevenidors e a lurs lochtinents sots la fe e naturalesa qui són o seran tenguts al dit senyor o sos successors e a tots sotmesos lur e sots pena de mort que los dits presents capítols e lo dit privilegi e les coses contenidores en aquelles e cascun d'ells tenguen e observen e tenir e observar facen inviolablement e no y contrafacen o venguen per alguna manera o raó". AHCG XV-4, lligall 1, book 1, f. 2v-3r.
- 43 Samuel K. Cohn Jr., "The Black Death and the burning of Jews", *Past and Present*, 196 (2007), pp. 3–31.
- 44 Flocel Sabaté, "En torno a la identificación de sinagogas medievales: El caso de Tárrega", *Sefarad*, 59 (1999), pp. 131–133.
- 45 ACA C, reg. 652, f. 121r; ed.: Amada López de Meneses, "Una consecuencia de la peste negra en Catalunya: el pogrom de 1348", *Sefarad*, 19 (1959), p. 326.
- 46 Oriol Saula, ed., *Tragèdia al call. Tàrrrega 1348*, Museu Comarcal de l'Urgell,

Tàrrrega, 2014.

- 47 Gener Gonzalvo, Josep Hernando, Flocel Sabaté, Max Turull, Pere Verdés, *Els Llibres de Privilegis de Tàrrrega*, Fundació Noguera, Barcelona, 1997, pp. 286–288.
- 48 Lluís Marcó, *Els jueus i nosaltres*, Editorial Pòrtic, Barcelona, 1977, p. 229.
- 49 Rodrigo Pita, *Lérida judía*, Dilagro Ediciones. Lleida, 1973, p. 144; Josep Maria Planes, *Breu aproximació als jueus de la Tàrrrega Medieval*, A. G. Camps, Tàrrrega, 1987, unnumbered.
- 50 Gonzalvo, Hernando, Sabaté, Turull, Verdés, *Els Llibres de Privilegis de Tàrrrega*, Fundació Noguera, Barcelona, 1997, p. 315.
- 51 Jaume Riera, “Els avalots del 1391 a Girona”, *Jornades d’Història del jueus a Catalunya*, Ajuntament de Girona, Girona, 1990, pp. 121–137.
- 52 Jaume Riera, “La destrucció del call de Barcelona”, *Història, Política, societat i cultura dels Països Catalans*, Borja de Riquer, ed., Enciclopèdia Catalana, Barcelona, 1996, vol. 3, pp. 282–283.
- 53 Philippe Wolff, “L’épisode de Berenguer Oller à Barcelone en 1285. Essai d’interprétation sociale”, *Anuario de Estudios Medievales*, 5 (1968), pp. 207–222; Carme Batlle, “Aportacions a l’història d’un revolta popular: Barcelona 1285”, *Estudis d’història Medieval*, 2 (1970), pp. 19–29.
- 54 “E puis aquella nuit lo rei s’endrecà ab sos cavallers e ab sos ciutadans de Barcelona que bon matí, ço és lo jorn de Pascua, après de moltes coses que hi hac dites e fetes dedins e defora, estrenà lo dit En Berenguer Oller e ab gran honor tras-lo del palau rossegant a la cua d’un mul, ab set de companyia que menava hom après d’ell ab los lligams al coll; e féu-los menar per tots los carrers de la ciutat e puis féu-los penjar per la gola tots set en una olivera, e En Berenguer Oller pus alt de tots”. Bernat Desclot, *Llibre del rei en Pere*, chap. CXXXIII (Ferran Soldevila, ed., *Les quatre grans cròniques*, Editorial Selecta, Barcelona, 1983, p. 518.
- 55 José Luis Martín, “Pactismo político y consolidación señorial en Cataluña tras la conquista de Sicilia”, *Economía y sociedad en los reinos hispánicos en la Baja Edad Media*, L’Albir, Barcelona, 1983, vol. 1, pp. 239–254.
- 56 AHCM, fons del veguer, vol. 3, unnumbered.
- 57 Santiago Sobrequès, “Alfons el Franc”, *Els Descendents de Pere el Gran*, editorial Vicens-Vives, Barcelona, 1980, pp. 19–34.
- 58 AHCM, fons del veguer, vol. 3, unnumbered.
- 59 “Ha-hi qui lo mat? Ha-hi qui lo mat al traïdor? Degolla-lo!, Degolla-lo!”, Francesc Eiximenis, *Dotzè del Crestià*, cap. 162; Francesc Eiximenis, *Dotzè llibre del Crestià I.1*, Universitat de Girona—Diputació de Girona, Girona, 2005, p. 349.
- 60 “senyor, no hi ha qui el mat ne qui el degoll, car la llei hi constrasta e lo fur de la terra, qui són coses pus forts que vós e qui manen més que vós e qui manen a vós; e dien-vos que negú no pren mort si doncs no és suficientment oït e li sien dades per cert temps defensions en sa justícia e és jurídicament sentenciat”. Eiximenis, *Dotzè del Crestià*, cap. 162, p. 349.
- 61 “Viva la llei! Viva la llei! E call e aprena de regir lo rei!” Eiximenis, *Dotzè del Crestià*, cap. 162, p. 349.
- 62 Manuel de Bofarull, ed., *Proceso contra el rey de Mallorca D. Jaime III, mandado formar por el rey D. Pedro IV de Aragón*, Imprenta del Archivo, Barcelona, 1866, 3 vols. (Colección de Documentos Inéditos del Archivo General de la Corona de Aragón), pp. 29–31.
- 63 Jesús-Ernest Martínez Ferrando, *La tràgica història dels reis de Mallorca*, Editorial Aedos, Barcelona, 1979, pp. 223–235.
- 64 “en les forques de Malloles de les quals foren penjats per lo rei en Jacme de

Mallorca els honrats en Pere Ribera e en Pere Arnau apothecaris e en Pere Arnau, fuster". ACP, AA5, f. 25r-v.

- 65 "En Guillem de Bellera, governador, féu penjar, en Puigcerdà, per ocasió de l'entrada d'En Jacme de Mallorques, catorze hòmens, ço és, sis de Cerdanya, e vuit de Perpenyà, qui eren de companya d'En Jacme de Mallorques". Pere el Cerimoniós, "Crònica", Chapter 197 (*Les quatre Grans cròniques*, Ferran Soldevila, ed., Editorial Selecta, Barcelona, 1983, p. 1088).
- 66 "Habans de ser sentenciats ha mort, digué lo dit Ramon Franc, devant notari y testimonis que ell ny els altres, no sabien res en dita traició y que'ls citave devant Déu, protestant et però per això no deixaren de sentenciar-los ha mort". Matías Delcor, "Dietari de Puigcerdà", *Pirineos*, 43-46 (1957), p. 319.
- 67 Jean-Pau Roux, *Le roi, Mythes et symboles*, Librairie Anthème Fayard, Paris, 1995, pp. 245-279.
- 68 José Manuel Nieto, "La comunidad política amenazada: debates en torno a la tiranía en el Occidente medieval (siglos XII al XV)", *L'espai del mal*, Flocel Sabaté, ed., Pagès editors, Lleida, 2005, p. 203.
- 69 Senellart, *Les arts de gouverner*, p. 30.
- 70 Jacques Krynen, "Droit romain et état monarchique. À propos du cas français", *Représentation, pouvoir et royauté à la fin du Moyen âge. Actes du colloque organisé par l'Université du Maine les 25 et 26 mars 1994*, Joël Blanchard, ed., Picard éditeurs, Paris, 1995, pp. 18-23.
- 71 "E com pot negun príncep dar licència de negun de matar altre si, donchs, no y ha al mig procés jurídic, com lo príncep no sia senyor a la ley mas servidor, executor e ministre?" Francesc Eiximenis, *Dotze llibre de la Crestià*, Col·legi Universitari de Girona—Diputació de Girona, Girona, 1986, p. 177.
- 72 "nós havem condemnat en Bernat de Cabrera a perdre lo cap". Manuel de Bofarull, ed., *Proceso contra Bernardo de Cabrera mandado formar por el rey Don Pedro IV*, Imprenta del Archivo, Barcelona, 1868, vol. 3, p. 270 (Colección de Documentos Inéditos del Archivo General de la Corona de Aragón, 34).
- 73 "Car primogènit, l'altre dia vos scrivim com lo senyor rey havie manat a mossèn Berenguer d'Abella que donàs mort an Bernat de Cabrera e nós scrivim a vos que la dita justícia de mort se fes per vos en nom del Senyor Rey". Francisco Monsalvatje, *El vizcondado de Bas*. Imprenta y librería de Juan Bonet, Olot, 1883, p. 64.
- 74 "Car primogènit, regonegut lo procés qui és stat fet contra en Bernat de Cabrera, major de dies, e vistes les colpes e crims que ha comeses contra nós et nostres Regnes, condemnam aquell ésser escapsat en guisa que muyra et en loch públic". Monsalvatje, *El vizcondado de Bas*, p. 66.
- 75 Eduard Junyent, *La ciutat de Vic i la seva història*, Curial, Barcelona, 1976, pp. 103-105.
- 76 Flocel Sabaté, "Municipio y monarquía en la Cataluña bajomedieval", *Anales de la Universidad de Alicante. Historia Medieval*, 13 (2000-2002), pp. 255-261.
- 77 Sabaté, "L'abus de pouvoir dans la Couronne d'Aragon", pp. 293-320..
- 78 "grand terror". Ramon Gubern, *Epistolari de Pere III*, Editorial Barcino, Barcelona, 1955, vol. 1, p. 114.
- 79 Hilda Grassoti, "La ira regia en León y Castilla", *Cuadernos de Historia de España*, 41-42 (1965), pp. 5-135.
- 80 Ramon d'Abadal, *Pere el Cerimoniós i els inicis de la decadència política de Catalunya*, Edicions 62, Barcelona, 1987, pp. 193-256.
- 81 Mario Lafuente, *Dos Coronas en guerra. Aragón y Castilla (1356-1366)*, Grupo de Investigación Consolidado CEMA de la Universidad de Zaragoza, Saragossa, 2012; José Vicente Cabezero, *La guerra de los dos Pedros en las*

tierras alicantinas, Instituto de Cultura Juan Gil-Albert (Diputación Provincial de Alicante), Alicante, 1991.

- 82 “el rey mi senyor vos manda matar”. Pere el Cerimoniós, “Crònica”, [Chapter 6.2](#); *Les quatre grans cròniques*, Ferran Soldevila, ed., Editorial Selecta, Barcelona, 1983, p. 1124.
- 83 “el nostre poble és franc e no és així subjugat com és lo poble de Castella, car ells tenen a nós com a senyor e nós a ells com a bons vassalls e companys”. Pere el Cerimoniós, “Crònica”, [Chapter 1.48](#); *Les quatre grans cròniques*, p. 1020.
- 84 Xavier Renedo, “Francesc de Vinatea, el ciutadà ideal segons el ‘Dotzè del Crestià’ de Francesc Eiximenis”, *Utopies i alternatives de vida a l’edat mitjana*, Flöel Sabaté, ed., Pagès editors, Lleida, 2009, pp. 215–252.
- 85 “car en si havia lleialtat e veritat”. Pere el Cerimoniós, “Crònica”, [Chapter 1.48](#); *Les quatre grans cròniques*, p. 1021.
- 86 Rafael Tasis, *La vida del rei en Pere III*, Editorial Aedos, Barcelona, 1961, pp. 36–39.
- 87 “proceïren contra lo dit En Llop, e li feeren turments, e fo-li finalment, dada sentència de mort, ço és que fon rossegat e penjat com se deia que ell avia fetes fetilleries a la dita reina que no pogués jamés infants concebre”. Pere el Cerimoniós, “Crònica”, [Chapter 1.49](#) (*Les quatre grans cròniques*), p. 1021.
- 88 Jaume Aurell, *Authoring the Past. History, Autobiography, and Politics in Medieval Catalonia*, The University of Chicago Press, Chicago—London, 2012, pp. 150–153.
- 89 “exiren de les cases tots armats, cridant—Aragó!, Aragó!—ab empresa que tothom qui cridàs ‘Mallorques!’ fos pecejat”. Pere el Cerimoniós, “Crònica”, [Chapter 3.195](#); *Les quatre grans cròniques*, p. 1087.
- 90 Rafael Tasis, *Les unions de nobles i el rei del Punyalel*, Rafael Dalmau editor, Barcelona, 1997, pp. 41–48.
- 91 “E hanc-n’hi alguns qui foren rossegats e penjats, e altres solament penjats. Dels quals n’hi hac alguns, així com ho mereixien, als quals fo donat a beure del metall de la campana de la Unió que havien feta, la qual estava en la sala de la casa del Consell de la ciutat, qui és prop la Seu. E, com aquesta campana repicava, los conservadors de la Unió e tots los altres, qui eren diputats als actes d’aquella, se justaven de continent. Per que fo justa cosa que aquells que l’havien feta fer beguessen de la licor d’aquella com fon fusa”. Pere el Cerimoniós, “Crònica”, [Chapter 4.60](#); *Les quatre grans cròniques*, p. 1109.
- 92 Flöel Sabaté, “L’invisibilitat del re e la visibilitat della dinastia nella Corona d’Aragona”, *Il principe invisibile*, Lucia Bertolini, Arturo Calzona, Glauco Maria Cantarella, Stefano Caroti, eds., Centro Studi Leon Battista Alberti—Brepols, Mantova – Turnhout, 2015, pp. 51–53.
- 93 “eren molt e diverses los crims per ells comeses”. Pere el Cerimoniós, “Crònica”, [Chapter 4.60](#); *Les quatre grans cròniques*, p. 1109.
- 94 “per tal que nós fóssem poderosos a fer justícia e punir aquells qui eren principals e pus culpables”. Pere el Cerimoniós, “Crònica”, [Chapter 4.48](#); *Les quatre grans cròniques*, p. 1105.
- 95 Esteban Sarasa, *Sociedad y conflictos sociales en Aragón. Siglos XIII-XV, Estructuras de poder y conflictos de clase*, Siglo Veintiuno de España Editores, Madrid, 1981, pp. 52–75.
- 96 “fetes nostres enquestes donam sentència corporal contra tretze persones d’aquella de la ciutat ab confiscació de béns per ço com havie comes crim de lesa majestat e aquesta sentència fon per nós personalment donada dins la dita Aljaferia”. Pere el Cerimoniós, “Crònica”, [Chapter 4.48](#); *Les quatre grans*

cròniques, pp. 1105–1106.

- 97 “Sapiats que per obres molt malvades que·l infant en Ferrando tractava contra nós a deseratament nostre, los quals per deute que havia ab nós no volem declarar, nós lo manàvem pendre a nostres alguatzirs als quals ell féu rebellió e·ls cuyda occiure, aytant com ell fos dins la nostra cambra e car d'altra guise no·s lexava pendre, nós fem-lo occiure per justícia axí com aquell qui ho merexia, perquè com la terra que ell tenia se pertanga a nós e a la nostra corona segons l'eretament a ell fet per lo senyor rey nostre pare e encara per lo crim per ell comès”. ACA C, reg. 1189, f. 215v.
- 98 Flocel Sabaté, “El poder soberano en la Cataluña bajomedieval: definición y ruptura”, *Coups d'état à la fin du Moyen Âge? Aux fondements du pouvoir politique en Europe occidentale*, François Foronda, Jean-Philippe Genet, José Manuel Nieto Soria, eds., Casa de Velázquez, Madrid, 2005, pp. 500–502.
- 99 Rafael Tasis, *Pere el Cerimoniós i els seus fills*, Editorial Vicens Vives, Barcelona, 1980, pp. 7–9.
- 100 Pedro López de Ayala, *Crónica del Rey Don Pedro*, [Chapter 9](#); *Crónicas de los Reyes de Castilla*, Cayetano Rosell, ed., Atlas, Madrid, 1953, vol. 1, p. 493.
- 101 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d'Henrich y Companyia, Barcelona, 1912, vol. 1, pp. 231–232. This source correctly gives the leading companions of the queen but offers the wrong dates for when these events happened.
- 102 Flocel Sabaté, *Lo senyor rei és mort!*, Edicions de la Universitat de Lleida, Lleida, 1994, p. 17.
- 103 “la nova quanch és venguda que·l senyor Rey era mort e la senyora Rehina que era fuyta”. ACBEB, clavaria 23, p. 168.
- 104 Joan Boada, *Monografia de l'església i castell de Sant Martí Sarroca*, Imprenta Badia, Barcelona, 1935, p. 22.
- 105 Alberto Bóscolo, *La reina Sibil·la de Fortià*, Rafael Dalmau editor, Barcelona, 1971, pp. 128–130.
- 106 Josep Maria Roca, “La Reyna Empordanesa”, *Sobiranes de Catalunya*, Real Academia de Buenas Letras de Barcelona, Barcelona, 1928, pp. 143–144.
- 107 “Per estrenes de principi de son regiment féu apresonar la dita madrastra e nobles e cavallers e molta gent de poble de baxa mà, dels quals foren qui escapçats, estorterats, cremats e penjats. E la dita madrastra marturiada, la qual cosa fou tan terrible que tothom se'n donà terror e fastig”. Vicent Josep Escartí, “El Ms. 212 de la BUV i les cròniques de Joan I, Martí l'Humà i Ferran I”, *Caplletra*, 15 (1993), p. 40.
- 108 François Foronda, *El espanto y el miedo. Golpismo, emociones políticas y constitucionalismo en la Edad Media*, Dyckinson, Madrid, 2013, pp. 77–95.
- 109 José Manuel Nieto Soria, “De la ira regia al poderío real absoluto: monarquía y miedo político en la corona castellano-leonesa”, *Por política, terror social*, Pagès editors, Flocel Sabaté, ed., Lleida, 2013, p. 247.
- 110 José Manuel Nieto, “La realeza”, *Orígenes de la monarquía hispánica: propaganda y legitimación (ca. 1400–1520)*, José Manuel Nieto Soria, ed., Dykinson, 1999, pp. 38–40.
- 111 Comparisons can be made with similar situations in other countries: Jean Lageret, counsellor to Duke Amadeus VIII of Savoy was hung in Chambéry in 1417, as well as Pierre Landis, treasurer and general tax collector of Brittany, was also executed in 1485. Jean-Pierre Leguay, *Pauvres et Marginaux au Moyen Âge*, Éditions Jean-Paul Gisserot, Paris, 2009, pp. 227–228.
- 112 Martí de Riquer, “Torroella de Montgrí en la primavera del año 1396”, *Festa Mayor 1959*, Ayuntamiento de Torroella de Montgrí, Torroella de Montgrí,

1959, unnumbered.

- 113 Sabaté, “El poder soberano en la Cataluña bajomedieval”, pp. 500–501.
- 114 “Crònica del racional de la ciutat (1334–1417)”, *Recull de Documents i Estudis*, I/2 (1921), p. 160; Frederic Schwartz y Luna, Francesc Carreras i Candi, eds., *Manual de novells ardots, vulgarment apellat dietari del antich consell barceloní*, Imprenta de’n Henrich y Companyia, Barcelona, 1892, vol. 1, p. 57.
- 115 “consellers, domestics, curials e officials del senyor rey En Johan”. ACA C, reg. 2273, f. 128v.
- 116 “per la tristor que li pervenia de la dita pobresa”. Marina Mitjà, “Procés contra els consellers, domèstics i curials de Joan I, entre ells Bernat Metge”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 27 (1957–1958), p. 384.
- 117 “jatsia a ells fos notòria la delicada compleció del dit senyor, disposta, si soferia pluvial, vents et altre mal temps, a perilloses infirmitats e affanys”. Mitjà, “Procés contra els consellers”, p. 380.
- 118 Flocel Sabaté, “L’Església secular catalana al segle XIV. La conflictiva relació social”, *Anuario de Estudios Medievales*, 28 (1998), pp. 775–779.
- 119 Flocel Sabaté, “La mort du roi en Catalogne: de l’événement biologiques au fait historiques”, *Faire l’événement au Moyen Âge*, Claude Carozzi, Huguette Taviani-Carozzi, eds., Publications de l’Université de Provence, Aix-en-Provence, 2007, pp. 156–167.
- 120 Bernat Metge, *Lo somni*, Edicions 62-La Caixa, Barcelona, 1980, pp. 27–141.
- 121 Jacques Le Goff, *El nacimiento del Purgatorio*, Taurus, Madrid, 1985, pp. 221–232.
- 122 Ramon de Perellós, “Viatge del Vescomte Ramon de Perellós i de Roda fet al purgatori nomenat de Sant Patrici”, *Novelles amoroses i morals*, d. Arseni Pacheco, August Bover, eds., Edicions 62, Barcelona, 1982, pp. 23–52.
- 123 José Antonio Alonso, “El Purgatorio de San Patricio (Sir Owain), de Henry of Saltrey. Apuntes generales”, *Océanide*, 3 (2011), unnumbered.
- 124 Sabaté, “El poder soberano en la Cataluña bajomedieval”, pp. 507–509.
- 125 Emilio Morera, *Tarragona Cristiana*, Diputació Provincial de Tarragona, Tarragona, 1982, vol. 2, pp. 507–576.
- 126 “senior rey en Pere predit féu comissió o letra de manament an en Bernat Manresa les hores veguer seu que penjàs lo veguer de l’archabisbe ab sos adherents”. AHT, lletres de paper, caixa 7, núm 14, unnumbered.
- 127 Flocel Sabaté, “Discurs i estratègies del poder reial a Catalunya al segle XIV”, *Anuario de Estudios Medievales*, 5 (1995), pp. 617–632.
- 128 Flocel Sabaté, “El poder reial entre el poder municipal i el poder baronial a la Catalunya del segle XIV”, *XV Congreso de Historia de la Corona de Aragón (Jaca, septiembre 1993)*, Isabel Falcón, ed., Diputación General de Aragón, Saragossa, 1996, vol 1/2, p. 327,342.
- 129 Flocel Sabaté, *The Power in the Crown of Aragon*, forthcoming.
- 130 James of Viterbo, *De regimine Christiano*, R. W. Dyson, ed., Brill, Leiden—Boston, 2009, p. 136.
- 131 Josep Maria Sans, ed., *Cort general de Montsó 1382–1384*, Departament de Justícia de la Generalitat de Catalunya, Barcelona, 1992, p. 78.
- 132 Flocel Sabaté, “Corona de Aragón”, *Historia de España. La época medieval: administración y gobierno*, Pedro Andrés Porras, Eloísa Ramírez, Flocel Sabaté, eds., Istmo, Madrid, 2003, pp. 357–358.
- 133 Constitucions y Altres Drets de Catalunya, I, book I, title XXVII, chap. I (*Constitucions i Altres Drets a Cathalunya*, 1st part, p 77).
- 134 “Item a XV de març dessus dit per manament del senyor Rey fiu fer les justícies següents, ço és d’en Berenguer Mir de Mallorques lo qual atorga

que.s era mudat de la part del senyor rey en Cerdanya a la part del jutge d'Arboreya e que tractava que castell de Càller fos trehit, per la qual cosa fo sentenciat de bocha del dit senyor que fos squarterat, e d'en Barthomeu Forcat de la Marcha d'Ancona, lo qual confessa que ha tractament al dit jutge e era vengut en les parts de Cathalunya per spiar si sich armava e per tractar mal al senyor rey e a la sua cosa pública, per la qual cose fo sentenciat per bocha del dit senyor que fos penjat e rossegat". ACA MR 1547, f. 98r.

- 135 Flocel Sabaté, "El compromiso de Caspe: ¿Ruptura dinástica o modelo de estado?", *Ruptura i legitimació dinàstica a l'edat mitjana*, Flocel Sabaté, ed., Pagès editors, Lleida, 2015, pp. 279–290.
- 136 Flocel Sabaté, "Per què hi va haver un Compromís de Casp?", *Els valencians en el Compromís de Casp i el Cisme d'Occident*, Ricard Bellveser, ed., Institució Alfons el Magnànim, València, 2013, pp. 45–120.
- 137 Prim Bertran, "El comtat d'Urgell i el Compromís de Casp", *Ruptura i legitimació dinàstica a l'edat mitjana*, Flocel Sabaté, ed., Pagès editors, Lleida, 2015, pp. 143–163.
- 138 Àngels Masià de Ros, *El dissortat comte d'Urgell*, Rafael Dalmau editor, Barcelona, 1960, pp. 40–55.
- 139 "nos moguts mes de pietat que de rigor de justicia del dit Jacme havem perdonat mort natural, mutilació de membres et exili perpetual de nostres regnes et terres et a les dites muller, mare e germanes sues les dites mort, mutilació et exili et encare presons; però lo dit Jacme pres et ben guardat nós havem detengut per tal que purgués la pena de sos pecats orribles". Próspero de Bofarull, *Colección de Documentos Inéditos del Archivo General de la Corona de Aragón*, Establecimiento litográfico y tipográfico D. José Eusebio Monfort, Barcelona, 1848, vol. 3, pp. 50–51.
- 140 Jaume Riera i Sans, "Els avalots del 1391 a Girona", *Jornades d'història dels Jueus a Catalunya*, Ajuntament de Girona, Girona, 1990, pp. 95–159.
- 141 "ffo dat juy de mort per lo Senyor Rei a VIII persones". Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 25.
- 142 Antoni Riera, *Els cereals i el pa en els països de llengua catalana a la baixa edat mitjana*, Institut d'Estudis Catalans, Barcelona, 2017, pp. 277–279.
- 143 ACA C, reg. 456, fol. 51v.
- 144 Carme Batlle, *La crisis social y económica de Barcelona a mediados del siglo XV*, CSIC, Barcelona, 1973, vol. 1, p. 50.
- 145 Flocel Sabaté, "La Governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya", *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 28–42.
- 146 Flocel Sabaté, "El somatén en la Cataluña Medieval", *Clio & Crimen*, 3 (2006), p. 234.
- 147 "ffo dada sentència al damunt dit hom qui fo pres per lo fet del demunt dit en Berenguer Badorch per lo Senyor Duch qui segons dit és era present en la ciutat e present lo dit Senyor qui estech sedente pro tribunali en la sala baix del palau menor del Senyor rey, fo li dada sentència de perdre e ésser-li tolt e levat lo cap de les espattes". Schwartz, Carreras, *Manual de Novells Ardots*, vol. 1, p. 12.
- 148 Sabaté, "Les factions dans la vie urbaine", pp. 360–362.
- 149 Flocel Sabaté, "Regnat de Martí I: el govern del territori i els bàndols", *Martí l'Humà. El darrer rei de la dinastia de Barcelona (1396–1410). L'interregne i el Compromís de Casp*, Maria Teresa Ferrer i Mallol, ed., Institut d'Estudis Catalans, Barcelona, 2015, pp. 108–114.
- 150 Carlos Laliena, María Teresa Iranzo, "Poder, honor y linaje en las estrategias de la nobleza urbana aragonesa (siglos XIV-XV)", *Revista d'Història Medieval*, 9

(1998), p. 72.

- 151 Jaume Serra, “Un procés per faltes de 1417 i el context de les banderies (Mallorca—Segle XV)”, *Bolletí de la Societat Arqueològica Lul·liana*, 61 (2005), p. 19.
- 152 Josep Sanchis i Sivera, *Dietari del Capellà d'Anfós el Magnànim*, Acció Bibliogràfica Valenciana, Valencia, 1932, p. 92.
- 153 “per remoció o lunyedat qui sol esser de la magestat reyal al present Castell seu los governadors de Sardenya hagen fets molts torts e moltes sobergueries e greuges axí als habitants de Caller com a strangers sens que los oppremuts, damnificats o agreviats per ells contra dret e justicia no han poscut haver recors a la vostra reyal iusticia”. Alberto Boscolo, ed., *Acta Curiarum Regni Sardiniae. I parlamenti di Alfonso il Magnanimo (1421–1452)*, Consiglio Regionale della Sardegna, Cagliari, 1993, p. 131.
- 154 “Item que visrey, governador ni altre official del regne de Serdenya no puxa executar a mort o mutilació de membre algun baró, cavaller ni hom de paratge sens consultar lo senyor rey e haver resposta sia signada de man de son vicecanceller. Plau al senyor rey”. Boscolo, ed., *Acta Curiarum Regno Sardiniae (1421–1452)*, p. 125.
- 155 Sabaté, “La Governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya”, *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 28–42.
- 156 Carme Batlle, *Barcelona a mediados del siglo XV*, El Albir, Barcelona, 1976, pp. 18–22.
- 157 Batlle, *La crisis social y económica*, vol. 1, p. 174.
- 158 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d'Henrich y Companyia, Barcelona, 1914, vol. 3, pp. 42–43.
- 159 Flocel Sabaté, “Els bàndols com a solidaritat en la societat urbana baixmedieval”, *Afers*, 30 (1998), pp. 458–472.
- 160 Sabaté, “Corona de Aragón”, pp. 348–349.
- 161 “a XXIII del mes de setembre del dit any de LXX penjam en Ffrancesh Rocha paller, encolpat de la mort d'en Riusech, de la botelleria del senyor rey, per la qual cosa lo senyor rey li donà sentència de penjar”. ACA MR 1547, f. 106r.
- 162 *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1896, vol. 1, p. 309.
- 163 Flocel Sabaté, “Perpinyà capital baix medieval dels comtats de Rosselló i Cerdanya”, *La Ciutat i els Poders / La Ville et les Pouvoirs. Actes du Colloque du Huitième Centenaire de la Charte de Perpignan (23/25 octobre 1997)*, Louis Assier Andrieu, Raymond Sala, eds., Institut Català de Recerques en Ciències Socials de l'Universitè de Perpignan, Perpignan, 2000, pp. 157–200.
- 164 “que'l governador ni son lochtinent qui ara són ni per temps seran no gosen procehir de mort ni de turments contra alcun sinó dades deffenses”. ACP, AA5, f. 129v-130r.
- 165 Sabaté, “L'augment de l'exigència fiscal en els municipis catalans”, pp. 426–430.
- 166 Sabaté, “La Governació”, pp. 56–57.
- 167 “Si algú serà trobat qui fembra de bordell tinga, ne de son mal guany visca, tantost sie per la ciutat, vila o loc hon aytal malefici perpetrara, scobat e açotat, axí com a alcavot públic, e de qui exillat, hon si après serà trobat, sie penjat per lo coll en guysa que muyra, sens tota gràcia e mercè e que algun official no puga mudar aquest pena en altra, ne fer-ne gràtia ne remissió graciosament ne per diners”. *Cortes de Cataluña*, vol. 3, p. 306.
- 168 Flocel Sabaté, “Por política, terror social”, *Por Política, Terror Social*, Flocel

Sabaté, ed., Pagès editors, Lleida, 2013, pp. 13–14.

- 169 Flocel Sabaté, “A Coroa de Aragão: identidade e especificidade política e social”, *Signum*, 14/2 (2013), pp. 60–70.
- 170 Gay, “La legislació de la Cort”, p. 68.
- 171 Stephen P. Bensch, “La primera crisis bancaria de Barcelona”, *Anuario de Estudios Medievales*, 19 (1989), pp. 311–327.
- 172 “Que tot cambiador qui serà estat abatut fins en aquest present die, o se abatra de aquí avant, lo qual no pac a sos creedors bé e planament, ço que a ells deu, a lur voluntat, ço és aquells qui ja ans del present die son abatuts, dins un any primer vinent, e aquells qui de aquí avant se abatran, tantost que seran abatuts, sien publicats ab veu de crida per infames, e per abatuts, en los locs en los quals se abatran, o seran abatuts, e encara per totas las veguerias de Cathalunya, e que.ls sie tolt lo cap, e que.ls béns de aytals abatuts, encontinent com seran abatuts o de aquells qui ja són abatuts, segons que damunt és dit, sien venuts per la cort del loc hon aquells béns són, o seran, per satisfer lurs creedors”. *Constitucions y Altres Drets de Cathalunya*, book IX, title XI (*Constitucions y Altres Drets de Catalunya*, 1st part, p. 420).
- 173 *Constitucions y altres Drets de Cathalunya*, I, book IX, title X.4 (*Constitucions y Altres Drets de Cathalunya*, 1st part, p. 421).
- 174 *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1899, vol. 2, p. 46.

6 The death penalty in the non-royal jurisdictions

The aforementioned jurisdictional fragmentation in Catalonia was the result of its origins in the Early Medieval Ages (with various counties arising from the Carolingian period and the advance into the frontier area), the evolution in the High Middle Ages (the consolidation of feudal lordships and the emerging urban nuclei) and finally the weakness of the Crown in the Late Middle Ages (with the necessary cession of patrimony by the sovereign even if only as loans). Together these consolidated a hard fragmentation of revenues and jurisdictions. As we have seen, the sanctioning of the impassability between jurisdictional domains in 1283¹ established a system of fragmented jurisdictions that did not collaborate with each other and that found the highest indicator of their power in the capacity to apply the death penalty, a state that came to characterise the country, as it lasted down to the end of the Old Regime into the nineteenth century.²

Anyone who had full jurisdiction enjoyed full power to punish. It is enough to see what the recognised powers of the lordship in Solsona in 1286 were: “justices toasted or burnt, hung, burning, breaking and cutting limbs, lying on the pillory or placing on the pillory, around the town beating, cutting ears, with iron branding with a cross and other punishments”.³

The monarch undoubtedly accepted this definition and acted under the same conviction. When John I granted La Roca de Vil·lec in Baridà to his treasurer Romeu Sesplanes in 1391, he specified that, on transferring all the jurisdiction over the place, the recipient enjoyed full power that allowed him to apply the punishments he considered fitting:

Culpabiles et criminosos fustigando, caucesignando, incarcerando, aures, manus, pedes, nares et alia membra auferendo et oculos extrahendo et privando, relegando, exulando mortem et naturales eis inferendo et quomvis alio percutoris et condempnatoris genere puniendo pecuniater vel corporaliter seu cum dictis culpabilibus et criminosis componendo eos absolvendo, perdonando et remitendo eis dicta crimina prout vobis et successoribus ac officialibus vestris placuerit et facere voluerit.⁴

The personal status of the holder was thus of no importance. Whether noble, bourgeois or ecclesiastic, if he had full jurisdiction over a place either by inheritance, exchange or acquisition, he had to show it by proclaiming his power to apply capital punishment. The proclamations announcing the changes in domain and the ordinances dictated over the place made this explicit from the first moment. Consequently, when the viscount of Rocabertí ceded his whole jurisdiction in Maurellàs to a citizen of Perpignan in 1393,—“en Johan Fabre, burgès a Perpenyà”—the latter, on taking possession of the place, made the usual public proclamation with the ordinances proclaimed “alta voce ac layca sive romana et intelligibili voce in platea dicti loci”, condemning, as was habitual in these cases, blasphemy and gambling. This was preceded by the proclamation that his bailiff and sergeants had to be obeyed under threat of being hung without mercy (*sots pena de penjar sens tota mercè*).⁵ This intimidatory proclamation of the death penalty was usually repeated in changes of lordship, ensuring that this punishment could be applied if the need arose. At the same time, in the places affected, the inhabitants naturally recognised the lord’s full powers to apply any type of punishment and remission, given that he was endowed with both the *merum* and *mixtum imperium*, as, for example, the local representatives of Vallfogona de Riucorb proclaimed explicitly:

That they, as councillors who are from the said place of Vallfogona confess and recognise that the lord has and exercises and administers justice and all civil and criminal jurisdiction, high and low, *merum* and *mixtum imperium*, over the said confessors and over all other men and women inhabitants of the said place and limits of Vallfogona; and that in all and any civil and criminal cases make and can and must make, punishments, compositions and remissions and all, and any other acts, actions and exercises belonging to his mercy as lord, and that all the above-mentioned men are vassals, dependent, bonded and associated men belonging to the said lord, and that they give to him sacraments and homages of loyalty and naturality as many times as necessary in the usual form and that for him the Council of Vallfogona has and owns the houses and possessions under lordship, *tertium*, seal and *fadiga* of the said lord.⁶

The examples mentioned to here are from situations where the lord enjoyed full jurisdiction over small places. The image of the country is of a mosaic of small jurisdictions which did not collaborate with each other on the judicial level, given that, especially in the fourteenth century, there was such a large number of little lords with full jurisdictional powers. This was mainly due to the crumbling of royal jurisdiction owing to the loans the sovereign needed. At the same time, there were also great noble domains, where the lord could

justify a secular tradition of maintaining the jurisdiction within the lineage. In these cases, the jurisdiction had also taken root as the exclusive and full power of the corresponding lord, who, backed by the secular tradition, assumed with great conviction that the king had no power to act in these domains. In fact, both were explicitly equated because only God had given the same full powers to one and the other, as the viscount of Cardona indicated explicitly when he addressed the count of Barcelona and king of Aragon in 1259: “to the very loved and honoured noble lord James by God’s grace king of Aragon, etc., from me, Ramon de Cardona by God’s grace Viscount of Cardona”.⁷ Similarly, the lord of Pinós and Mataplana explicitly proclaimed that in his domains there was no-one above him: “we do not understand that anyone be higher than us in our jurisdiction”.⁸ That is why, as stated in 1311, “the said noble and his officials punish and are used to punishing all wrongdoers” and, in this sense, his procedure was quite clear: “we shall punish them according to what the crime merits”.⁹

At the same time, these great domains suffered from internal processes of fragmentation and tensions with minor lords, which therefore replicated jurisdictional conflicts like those that the kings experienced in their lands.¹⁰ This led to negotiations to try to steer through the disquisition between the *merum* and *mixtum imperium*, sometimes even requiring long negotiations and mediation. In 1357, an arbitration ruling reached by two mediators—“àrbitres arbitradors”—was needed to detail precisely what the specific competences included in the minor jurisdiction in Lloret de Mar were (“in the castle, place and parish of Lloret”).¹¹ This was because it belonged to the cathedral of Girona—more precisely to the *Pabordia del mes de noembra en la Seu de Gerona*—, respecting the other powers in the higher jurisdiction that belonged to the lord of the barony of Llagostera, which is where this coastal town was located.¹² The mobility of each right and income in the feudal system conditioned very varied situations, which is why the contents and details held by each lord were so very different. At as late a date as 1544, an arbitral sentence between the bishop of Vic and Berenguer de Cardona was required to detail exactly what the contents of the *mixtum imperium* were, given that the latter had these right in the limits of the castle of Brull, while the higher jurisdiction or *merum imperium* belonged to the bishop and church of Vic.¹³

Sometimes great noble domains were transferred to the sovereign, who respected the particular institutions and structures. Despite being king, in these domains he preferred to act beyond the royal guarantees, ruling these territories with fewer legal hindrances and even under less pressure than those from the neighbouring large royal

cities. King Martin demonstrated this in 1402 on receiving the county of Empúries¹⁴ and the situation became apparently paradoxical. The royal city of Girona was pleased that the county of Empúries had been incorporated into the domains of the king, because this county fell within its social and economic area of influence and the homogenisation of the region under the same royal jurisdiction would benefit the city and the business of its ruling class. Consequently, the municipal government promoted the royal district jurisdictional officer, the *veguer* or vicar of Girona.¹⁵ However, the same king, acting as count of Empúries obstructed the royal officer, as if it were against himself. The local authorities in Girona did not hesitate to warn the king that his attitude was harmful for the royal jurisdiction and should be corrected: “doing this, our lord, you will do justice and what you have to do, according to the said privileges and thus you will keep your rights and royal privileges”.¹⁶ Some decades earlier, King Peter the Ceremonious had shown a similar attitude on incorporating the viscounty of Bas.¹⁷ Far from integrating the lordship into his royal domains, he did not allow the ordinary and district royal jurisdictional officers to act but maintained the noble entity’s own institutional figures. That is why in 1339, he called on the viscount’s procurator to exercise the *merum* and *mixtum imperium* in his name,¹⁸ designating the corresponding judges for that.¹⁹

The municipal representatives under baronial jurisdiction negotiated with the corresponding lord the privileges to reinforce the town’s position as a regional capital, increase the municipal functions, aid trade, reduce the tax burden and give legal guarantees to the inhabitants. This coincided with the behaviour of their counterparts in the royal domains. Like these, they also frequently requested privileges to avoid preventative imprisonment in exchange for bail, which was usually restricted to offences that could carry corporal punishment: “mutilation of limbs nor corporal death”.²⁰ In 1392, the representatives of Reus obtained the same from their lord, a churchman, the chamberlain of Tarragona cathedral. It is very similar to the privilege enjoyed by the inhabitants de Blanes in the domains of a great noble, the viscount of Cabrera, who avoided prison in exchange for bail except in cases of capital or corporal punishment: That resident or inhabitant of the said town or limits cannot be put into prison, unless for corporal punishment or mutilation of members or death but with sufficient bail, up to a sum of fifty pounds, they be put under arrest in their homes.²¹

Equally, the respective lord approved the ordinances presented by the popular representatives, whether municipal or “from the land” (*de la terra*), in the noble areas with supra-municipal entities,²² that precisely coordinated homogenous territories, like the Pyrenean

valleys. In 1424, in the Pyrenees, the count of Pallars and the representatives of the Àneu Valley—"by the illustrious lord Arnau Roger, by the grace of God count of Pallars and by the eminent citizens of the Àneu Valley",²³—emphasising the autonomy of the valley and at the same time assisted by a jurist who was the county's ordinary judge—"Micer Antoni de Balcebre, doctor in law and judge in the county of Pallars",²⁴—approved some ordinances for the valley that included the pyre for witches. These cases were considered very serious as it was supposed that the witches met the devil at night, made poison and sacrificed small children ("taking small children from beside their mothers and killing them"²⁵), but they also increased the punishment for theft. The existing gradation between financial and physical punishment that reached the death penalty for a fourth conviction for robbery, was considered too soft and not a very good deterrent, and even that it encouraged offenders. That is why a harsher measure was approved, with the clear aim of infusing greater fear. This involved the death penalty being applied immediately in those crimes against property that were considered serious and that were detailed as follows:

As the said soft chapter gives more occasion to offend than to spread terror or punishment to the offenders, we correct and abolish the said chapter to order that if anyone commits theft or robbery and that the quality of the stolen goods merits death, as well as in the cases of breaking into houses, shops, stealing from merchants on the roads, stealing animals or livestock in the mountains and wheat and other goods in the square or the market, or the millstone or the clothes on the clothes line or in the mills, or similar objects to these, that whoever does such robberies, not considering if it was the first, the second or the third, must be hung by the neck in a way that he dies.²⁶

The noble domains were divided up between ordinary district courts, in line with the respective tradition, which is why the titles used by the jurisdictional officers varied and the practices were adapted to the different cases. However, growing similarities with the royal areas can be identified, with them adapting to the Romanist model of the jurists.²⁷ The holder of the jurisdiction reserved the highest level, where cases could be appealed against or, if considered necessary, he could rule on them. The consultative surroundings of the noble, sometimes explicitly called "*consell*" (council), acted as a higher court, in a task that was usually linked to the respective chancellery and adapted to the same Romanist format under the supreme consideration of the lord. That is why they sometimes pronounced explicitly on capital sentences. That is what the count of Urgell did in 1318 when he ratified the death penalty in a murder case that had been initially judged by the bailiff of Agramunt.²⁸

Dictating the death penalty became a maximum indicator of sovereignty. The holder invoked this in line with the divine order, accommodation to the law, and especially concern for the common good, concurring with the argumentation wielded by the barons with jurisdictional power in other neighbouring countries.²⁹ In fact, once the jurisdictional fragmentation was accepted and the fact that the government of the people (*regiment de gents*) belonged to both the king and anyone else who had just right,³⁰ it came to be considered normal that justice, wisdom and prudence must feature all of them, given that they had contracted the same responsibility towards God and society.³¹ The guarantees inherent in the Romanist judicial system and professionalisation in the hands of jurists assimilated the courts of justice, the procedural practices and the justificative arguments of power.

The exercise of the supreme jurisdiction reached all aspects, including apparent abuses. If the king sometimes led his superior power to the royal wrath³² or found political justification with which to hide more private ambitions,³³ the other holders of jurisdiction did similarly. Certainly, in the early fourteenth century, Count Ponç V of Empúries, enjoying full jurisdictional power in his domains, was accused of using the threat of capital punishment to gain sodomite favours:

The count said to Bartomeu that they could sleep together and the latter replied, 'Sir that is not allowed'. Then Ponç-Hugh answered angrily, 'If you don't do it, in the morning, I'll hang you'. And Bartomeu answered, 'Ah Lord, for God's sake, don't do it'. The count, getting more irritated, shouted, 'On my mother's head, I'll do so if you don't do it'.³⁴

The generalisation of procedural forms based on Roman law and, notably, the social weight of the jurists and notaries trained in this law who became omnipresent in the workings of the institutions from the thirteenth century, led towards a strong legal and procedural homogenisation, beyond local particularisms, sometimes explicitly respected in the judicial procedures called "stils".³⁵ Even more notably, the weight of the urban elites was spreading veritable radii of socio-economic influence over the territory, because the safest investment was in the surrounding land. This trend, by concentrating interests and connections, built areas of influence around the urban centres.³⁶ These were accepted by the inhabitants of these territories as they came to adopt the respective town or city as a centre of services.³⁷ The country became a network of socio-economic capitals, with their concatenations and areas of confluence. However, these areas of influence overlapped with the jurisdictional delimitations. The fact that these socio-economic spheres often did not align with the

limits of jurisdiction generated very serious problems, because justice ground to a halt due to the lack of collaboration between jurisdictions. This hampered the pursuit of crime but, even more so, the reclamation of unmet loans and financial commitments. From the second half of the fourteenth century, the elites in large capitals like Girona or Manresa, complained stridently that their fortunes were at risk as they were unable to act against debtors in other jurisdictions.³⁸ For example, in 1396 the council of Girona was very clear in stating that many citizens,

They were severely impoverished because they have a large part of their assets in perpetuated or temporary loans on the County of Empúries, the Viscounty of Rocabertí or various castles and places in these counties and viscounty and other lands of barons.³⁹

The jurisdictions were, in fact, impassable, and so the gallows fulfilled their boundary function, as approved by the courts of 1283. At the same time, the lack of collaboration sought to avoid any possible precedent that could later be interpreted as an indicator of the superiority of one jurisdiction over the other.⁴⁰ This country, converted into a mosaic of small jurisdictions derived from the permanent cessions of jurisdiction as guarantees of credit by the king in the fourteenth century, was not conducive to the normal working of urban strength. That is why the municipal governments were the first to mobilise to alleviate the situation by working to help the monarch recover the minor jurisdictions ceded in the royal areas. This might be achieved by the cities and towns themselves acquiring the jurisdiction or creating the mechanism by which the affected population supplied the necessary funds.⁴¹ To convince the population to contribute towards this financial effort the royal chancellery spread royal propaganda defining the king's jurisdiction as a "sweet lordship"⁴² contrasted with the baronial jurisdiction, defined by "much oppression, vexations and mistreatment".⁴³ The disclosure of these approaches, especially in the nineteenth century, when the opprobrium was clearly identified with the nobility and progress with the alliance between the monarchy and the urban world,⁴⁴ has seriously damaged the historiography. This has accepted and repeated with certain ingenuity that the population preferred the royal jurisdiction to that of the nobles and barons and that, in this sense, the building of gallows by the latter annoyed the population.⁴⁵

In reality, the urban elites sought jurisdictional stability.⁴⁶ Consequently, the main urban centres under royal jurisdiction demanded, and obtained, privileges of inalienability for themselves and their areas of influence, to maintain everything under the same royal jurisdiction. Examples include the city of Girona in 1338 over the whole of the diocese of Girona⁴⁷ or, between 1321 and 1336, a

medium sized town like Igualada over the neighbouring municipalities considered to be in its area of influence.⁴⁸ However, the great urban centres under noble jurisdiction did exactly the same, demanding not to be separated from the baronial jurisdictional entity. This is what Castelló obtained for the county of Empúries in 1327⁴⁹ or what a medium sized place like Pujalt also demanded and obtained in 1375 when it had its position in the domains of the count of Cardona consolidated.⁵⁰ Thus, the reasons the gallows produced discomfort was not their baronial character but more the rupture they imposed on the jurisdictional cohesion, because this break altered the unity of action necessary to manage the interests derived from the socio-economic centres. Precisely for that, tales and examples from the popular contemporary literature show the lords exercising their full role as justice makers with absolute normality, acting as the executors of the sense of justice with which God wanted the world to work.⁵¹

The jurisdictional unit was also split by personal jurisdictions. The ordinary justice, whether applied under royal jurisdiction or by the respective lord in the baronial places, could not prosecute some people because of their status. These judicial courts could not act against the accused who alleged that they were churchmen, who could only be judged by ecclesiastical courts, a function taken on by the episcopal officials (*l'oficial*). The large number of tonsured clergy, who had only taken minor orders and later switched to a completely lay daily life, led to an increase in tensions everywhere because they always used this as a subterfuge to gain immunity. This also combined with the strategy of the Church to increase its power by taking jurisdiction over all tonsured people.⁵² Usually serious tensions derived from these arguments in which the ecclesiastical institution had no qualms about carrying out its threats of excommunication and interdiction.⁵³

In Valls in 1330, one accused had been sentenced to death—“furca suspendendum pronunciatis ratione multorum excessuum pro eundem in loco de Vallibus cum quibusdam suis complicitibus commissorum”—but then revealed his status as a member of the clergy, given that he had taken minor orders, the tonsure: “dicebatur clericus tonsuratu”.⁵⁴ This enabled him to find a more lenient punishment, as normally clergymen were never given capital sentences for ordinary offences. With this intention, there were many similar cases with accusations of such serious crimes as murder, that could lead to the death penalty, although normally this happened at the moment of arrest.⁵⁵ This always tended to be a surprise, and it was considered that the Church acted in its own interest in taking on and claiming all the cases in which this claim arose. The ordinary justice rarely acted against anyone who claimed to be tonsured.⁵⁶ If it did so, it usually led to

serious tensions between the secular and ecclesiastical jurisdictions. In 1411, in Valencia, on being arrested a tailor who was caught “in fraganti” attempting to rape a widow in her home also alleged he had ecclesiastical status. However, given the seriousness of the crime, the local authorities decided to continue the usual procedure and to condemn him to death to set an example. The Church responded, having suddenly understood that the personal jurisdiction over the clergymen was not being respected, and this was the reason why the judicial official and the authorities were excommunicated: “the man alleged crown, but the city, as the said deed was so ugly and it was easy to be taken as an example, decided that the man should be hung”.⁵⁷ This led to a case that reached the Pope, precisely at a time in the Western Schism when Benedict XIII was residing in the Crown of Aragon.⁵⁸

To sum up, the overlap between jurisdiction and death penalty placed this in the hands of those who held the full jurisdictional power. In any case, the invocation, display and even application of capital punishment played a notable role in the everyday struggle for power.

Notes

- 1 José Luis Martin, “Pactismo político y consolidación señorial en Cataluña tras la conquista de Sicilia”, *Economía y Sociedad en los reinos hispánicos de la Baja Edad Media*, El Albir, Barcelona, 1983, vol. 1, pp. 239–254.
- 2 Núria Sales, “Un problema metodològic: l’oblit de les cúries baronials en estudis sobre justícia i delinqüència (França i Espanya, segles XVI–XVIII)”, *Afers*, 10 (1990), pp. 363–383.
- 3 “Justícies torrades o cremades, penjant, cremant, membres trencant o tallant, jaient en lo costell o costell posant, per la vila fustigant, orelles tolent, ab ferro senyalant en creu e altres penes”. Antoni Llorens, *Solsona i el Solsonès en la història de Catalunya*, Editorial Virgili & Pagès, Lleida, 1986, p. 266.
- 4 ADPO 1B-157, f. 1v.
- 5 ADPO 1B-207, f. 48v-49r.
- 6 “Que ells, com a jurats que són del dit lloc de Vallfogona confessen i regoneixen que'l senyor té i exerceix i administra justícia i tota jurisdicció civil i criminal, alta i baixa, mer i mixt imperi, sobre ells dits confessants i sobre tots els altres homens i dones habitants en dit lloc i terme de Vallfogona; i que en totes i qualsevols causes civils i criminals fa i fer pot i deu, punicions, composicions i remissions i tots i qualsevols altres actes, avantaments i exercicis que's pertanguen a sa mercè com a senyor, i que ells tots els sobredits són vassalls, homens propis, solits i associats de dit senyor, i que li fan i presten sagraments i homenatges de fidelitat i naturalitat tantes quantes vegades és menester en la forma acostumada; i que per ell la Universitat de Vallfogona té i posseeix les cases i propietats sots senyoria, terç, firma i fadiga del mateix”. Ramon Corbella, *Història de Vallfogona*, without publisher [Els familiars de l'autor], Barcelona, 1975, p. 48.
- 7 “al molt amat et honrad et noble seyer en Jacme per la gracia de Déu rey

d'Aragó, etc., de mi en Ramon de Cardona per la gràcia de Déu vescomte de Cardona". Francesc Carreras Candi, "Rebelió de noblesa catalana contra Jaume I en 1259", *Miscelanea històrica catalana*, Imprenta de la Casa Provincial de Caridad, Barcelona, 1906, vol. 2, p. 494.

- 8 "nós no entenem que nengú hic sia major que nós en nostra juresdicció". Joan Serra i Vilaró, *Baronies de Pinós i Mataplana*, Centre d'Estudis Baganesos, Bagà, 1989, vol. 2, p. 16.
- 9 "lo dit noble e sos officials puneixen e an acostumat a punir tots malsfeytors e delinqüents"; "nós lo puniríem segons lo mèrit del crim". Serra i Vilaró, *Baronies de Pinós i Mataplana*, vol. 2, p. 16.
- 10 Flocel Sabaté, *El territori de la Catalunya medieval*, Fundació Salvador Vives Casajuana, Barcelona, 1997, pp. 227–234.
- 11 "en lo castell, loc e perròquia de Loret e térmens d'aquell". AMLM, parchment 1357 (Josep Maria Pons Guri, "Jurisdiccions compartides a la Catalunya baix-medieval", *Recull d'Estudis d'Història Jurídica Catalana*, Fundació Noguera, Barcelona, 1989, vol. 3, pp. 134).
- 12 AMLM, parchment 1357 (Pons Guri, "Jurisdiccions compartides", pp. 134–138).
- 13 Segismon Cunill, "Sobre'l mixt y la jurisdicció civil en el Castell y terme del Brull durant el sigle XVI", *Butlletí del Centre Excursionista de Vich*, 3 (1918–1920), pp. 173–76; 4 (1921–1924), pp. 34–36.
- 14 Flocel Sabaté, *Castelló, capital del comtat d'Empúries a la baixa edat mijana*, forthcoming.
- 15 Flocel Sabaté, "La ville de Gérone contre l'évêché d'Empúries", *L'Histoire à la source: acter, compter, enregistrar (Catalogne, Savoie, Italie, XII^e–XV^e siècle). Mélanges offerts à Christian Guilleré*, Guido Castelnuovo, Sandrine Victor, eds., Université Savoie Mont Blanc, Chambéry, 2017, vol. 1, pp. 399–408.
- 16 "en açò senyor farets justícia e ço que devets segons tenor dels dits privilegis e conservarets vostres drets e regalies". AHCG. XV.4, plec 3, unnumbered.
- 17 AMC, Llibre d'usos i privilegis d'Olot, f. 115v–116r.
- 18 ACA C, reg. 951, f. 102r.
- 19 ACA C, reg. 952, f. 235v–236r.
- 20 "motilació de membres ne mort corporal". AHCR, Privilegis, lligall 1, num. 12, f. 2r.
- 21 "Que ningun stadans o habitant de la dita vila o terme no pugen ésser posats en presó, sinó per pena corporal o mutilació de membra o mort sinó que ab sufficients fermances, fins a suma de sinquant lliures, sia donat a arrest en sas casas". Josep Maria Pons Guri, *Llibre de la Universitat de la Vila de Blanes*, Ajuntament de Blanes, Blanes, 1969, p. 171.
- 22 Flocel Sabaté, "La comuna idealitzada i rebutjada a la Catalunya baixmedieval", *Els espais de poder a la ciutat medieval*, Flocel Sabaté, ed., Pagès editors, Lleida, 2018, pp. 143–144.
- 23 "per lo molt egregii lo senyor n'Arnau Roger, per la gràcia de Déu comte de Payllars e per los prohòmens de la vall d'Àneu". José I. Padilla, ed., *L'esperit d'Àneu. Llibre dels Costums i Ordinacions de les Valls d'Àneu*, Consell Cultural de les Valls d'Àneu, Esterri d'Àneu, 1999, p. 148.
- 24 "micer Anthoni de Balcebre, doctor en leys e jutge ordinari del comdat de Pallars". Padilla, *L'esperit d'Àneu*, p. 148.
- 25 "levant los infants petits dels costats de lurs mares e aquells maten". Padilla, *L'esperit d'Àneu*, p. 148.
- 26 "Com lo dit capítol sia mes a donar ocasió de delinquir que no a dar terror ni pena als delinqüens, perquè corregint e abolint lo dit capítol ordonam que si algú cometrà furt o ladroníci he sia aital lo furt que merescha mort, axí

com trenquar hostals, butigues, robar mercadés per camins, furtar bèsties o bestiar en les montanyes e blat o altres mercaderies en la plaça o mercat, o la mola o tiradós o al molí, o semblants de aquests, que aquels qui tal furts ffaran o cometran, no avent esguart si és primer, segon o terts, sia penjat per la gola en fforma que'n muyra". Padilla, *L'esperit d'Àneu*, p. 149.

- 27 Sabaté, *El territori de la Catalunya medieval*, pp. 238–245.
- 28 ACA C, reg. 363, f. 37v.
- 29 José Ignacio Ortega, "Títulos, señoríos y poder: los grandes estados señoriales en la Castilla centro-oriental", *Títulos, del reino y grandeza en la sociedad política: sus Fundamentos en la Castilla medieval*, María Concepción Quintanilla, ed., Sílex, Madrid, 2006, p. 283.
- 30 *Cortes de Catalunya*, Real Academia de la Historia, Madrid, 1900, vol. 3, p. 47.
- 31 José Ángel Sesma, "La nobleza bajomedieval y la formación del estado moderno en la Corona de Aragón", *La nobleza peninsular en la Edad Media. VI Congreso de Estudios Medievales*, Fundación Sánchez-Albornoz, Ávila, 1999, p. 373.
- 32 Flocel Sabaté, "L'abus de pouvoir dans la couronne d'Aragon (XIIIe- XIVe siècles): pathologie, corruption, stratégie ou modèle?", *La pathologie du pouvoir: vices, crimes et délits des gouvernants. Antiquité, Moyen Âge, époque moderne*, Patrick Gilli, ed., Brill, Leiden–Boston, 2016, pp. 295–320.
- 33 François Foronda, "The Seville Abduction or the collapse of the order of Ritual in the Public Audience (1455)", *Imago Temporis Medium Aevum*, 3 (2009), pp. 219–229.
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- 42 “dolça senyoria”. ACGAX parchments A-410.
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- 51 Francesc Eiximenis, *Terç del Crestià*, chap. CCXVIII; Francesc Eiximenis, *Contes i faules*, Marçal Olivar, ed., Editorial Barcino, Barcelona, 1925, p. 45.
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- 53 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gonyalons Bou, eds., Imprempta d'Henrich y Companyia, Barcelona, 1914, vol. 3, p. 43.
- 54 ACAC, parchment 51.
- 55 ADPO 1B-190, f. 33r.
- 56 “Fou penjat ras lo cap perquè allegava corona adulterina a les forcas de la Rambla” (“he was hung, with his head shaved because he alleged adulterine tonsure, on the gallows in the Rambla”). Frederic Schwartz, Francesc Carreras Candi, eds., *Manual de novells ardots, vulgarment apellats dietari del antic consell barceloní*, Imprempta de'n Henrich y Companyia, Barcelona, 1893, vol. 2, p. 73.
- 57 “lo dit hom al·leguà corona, però la ciutat, per tal com lo dit fet era tan leig e era fàcil de ésser tret en exemple, del·liberà que lo dit hom fos penjat”. Agustín Rubio Vela, *Epistolari de la València medieval*, Institut de Filologia Valenciana—Universitat de València, Valencia, 1985, p. 360.
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7 The death penalty in the legislation of the municipal centres

The increasing strength of the main urban centres conquered in the twelfth century, Tortosa¹ and Lleida,² and their control over the surrounding areas,³ gave their ruling elites a special status. They were able to influence the ruling sovereign, control the actions of the ordinary jurisdictional officer and, with that, participate in the development of norms⁴ and the judicial system.⁵ Thus, at the beginning of the thirteenth century, a full sets of legal norms arose designed to regulate the conduct of urban life. The concern for property was clear in these. In Lleida, in the case of theft, not only was compensation for the victim established but it was also envisaged that the guilty party be submitted to a graded physical punishment, according to the seriousness of the misdeed, including the amputation of limbs and, in the most extreme situation, the loss of life: “Pro furto membrum abscinduntur, vel ultimum suplicium infertur”.⁶ The other offences were not, at that moment, considered so serious, not even murder, for which financial punishment was applied in accordance with the social category of the victim: “pro milite interfecto emendantur LXXXa IIIIor aurei. Pro rustico vero XLII”.⁷

Given that the legal text of the *Customs of Lleida* was taken as a model with which various Templar domains were organised in the lands of the lower Ebro,⁸ similar penalties was applied in the *Customs of Horta* (“Pro furto membrum abscidatur vel ultimum suplicium inferatur prout faciendum videbitur *iudicanti*”),⁹ Torre de l’Espanyol¹⁰ and Miravet.¹¹ A range of possibilities was envisaged for the presiding judge to consider for the culprit depending on the seriousness of the crime. This depended on the amount stolen and also the quality, in other words, of the goods stolen and the person robbed. This range began with public shaming in the streets of the town, then amputation and could go as far as the death penalty: “for the thief run through the streets of the town or have his limbs cut off or in the end be sentenced to death according to the quantity or the quality of the deed, if he is a manifest thief”.¹²

The more elaborate Customs of Tortosa resorted more often to the death penalty. Above all, they applied it for lese-majesty for plotting

the death of the sovereign or his children—"who plotted death of the prince, that is, the king or his sons, must die",¹³ male homosexuality—"if anyone uses lewdness with another man, he must lose his head, and so he will die"¹⁴—and rape if the victim was a married woman or a virgin for whom the aggressor had not procured, with his own money, a husband according to her social status.¹⁵ Capital punishment was also envisaged for those who betrayed the trust of their lord by having sexual relations with a relative close to him. Proximity was defined as being within the fourth degree ("there will be carnal coupling with the wife of that lord or with his daughter or with his granddaughter or with his sister or with his relative to the fourth degree") and the degree of relation with the lord was valued according to whether the person involved received food, salary or shared the home or trust and benefit:

if someone is with the lord and eats his bread and takes salary from him or is in the lord's trust or takes benefit of anyone who eats with the lord, or if he is in the home of he who reaps a benefit.¹⁶

In contrast, in the same Customs of Tortosa, in the case of murder, death was also envisaged but this could be nuanced. First of all, the death penalty was specified for anyone who had killed someone inside the city limits: "any man and any woman who kills another in the city or any place in the limits of Tortosa publicly, shall be arrested and condemned and sent to death".¹⁷ There had to be an accusation, proof and condemnation by the municipal representatives: "if anyone kills another and is accused and found guilty, if then there is no just excuse, the killer must be hung in such a way that he dies, by sentence by the citizens".¹⁸ The first nuance was if the accused could justify the deeds through a just excuse (*justa excusatió*). Moreover, in cases of poisoning or spells, those who made the accusation could opt for a financial reward:

and similarly and that punishment should suffer he who with poison or with venoms, or by other enchantments, kills another, but it is the choice of the accuser who can demand death, or the punishment of the homicide in money.¹⁹

The lower status of Jews and Muslims justified their murder and did not led to capital punishment but rather to financial reparations in line with a traditional practice that was finally added to the Customs of Tortosa in 1279²⁰: "from this ordinance and this custom Jews and Saracens are excepted, and these shall be compensated financially in the case someone killing them, according to what is customary until today in Tortosa".²¹

In these same Customs of Tortosa, punishment for the theft of goods was structured very precisely into six levels in accordance with the value of the booty: up to five shillings, in the case the accused cannot

pay compensation, lashes, one for each shilling; from five to fifteen shillings, lashing and public shame through the streets of the city; from fifteen to thirty, as before but also branding on the forehead with a hot iron; from thirty to sixty, amputation of ears and being chased through the streets with the ears tied around the neck and then banishment from the city; from sixty to one hundred, amputation of the right hand, and over on hundred shillings, hanging by the neck. In all cases the punishment could be reduced if an amount of money was returned:

If the thief steals in money or in valuables up to five shillings, according to the punishment established by the law, he must receive one lash for each shilling in the case the accused cannot pay compensation. And in the case of five shillings up, until fifty, the thief must run through the streets of the city, naked, just wearing underpants, while the sergeant lashes him shouting: 'who does such will receive such'.

And in the case of fifteen shillings up, until thirty shillings, he must be marked with a red-hot iron and must run the streets of the city naked wearing underpants while the sergeant lashing and striking him shouting: 'who does such will receive such receive'. And in the case of he who steals from thirty shillings up to sixty or in valuables, his ears must be cut off, and he must run the streets of the city naked wearing underpants and carrying his ears around his neck tied on a rope, while the sergeant striking him shouting: 'who does such will receive such', and finally he must be expelled from the city.

And in the case of sixty shillings up, in money or in valuables until one hundred shillings, the thief must lose the right hand. In the case of more than one hundred shillings in money or valuables, he must be hung to die (...).

And if from the beginning the accused cannot or does not amend the quantity stolen, he must suffer the punishment according to the quantity remaining, and the punishment must be reduced according what he pays or returns of the stolen thing or the punishment.²²

Capital punishment was also ordered for anyone who seized people and especially fugitive slaves, with their accomplices, precisely in the context of the general concern to avoid the flight of slaves.²³ In this setting, the Customs of Tortosa stated:

if anyone by tricks retains a free person, servant or slave, or in the case anyone keep at home some slave fugitive or stolen, damage will be done against the friends of the free person or against the owner of the slave. Consequently, when these acts be proved, the guilty must be dragged and then be hung so he dies.²⁴

To make this a deterrent, harsh capital punishment for the fugitive slave was sought, although that could mean a financial loss for the

owner. So, in Barcelona in 1296 this was made dependent on the owner's wishes, whose permission was required to allow the application of the death penalty. However, this could only be applied by order of the holder of the jurisdiction, in this case, the vicar of Barcelona: "if a slave flees, he must be quartered in the case his owner wants this done and demands it from the vicar".²⁵ Precisely to avoid this limitation, in 1350, the municipal government of Barcelona drew up an obligatory register of slaves where the owner noted the price, thus establishing an insurance system that enabled him to recover the money in case of flight, while the slave lost his or her life. The measure was repeatedly proclaimed in the following years, precisely out of interest in controlling the large number of slaves in Barcelona.²⁶ Significantly, the punishment was applied more harshly if the slave was Muslim and less so with a Christian, as was then the case of many of the slaves from the eastern Mediterranean, defined as Greeks. The latter would be hung while the former would be dragged and hung: "any slave who is found fleeing, if Saracen shall be dragged and hung, if Greek or baptised, shall be hung".²⁷ The same capital punishment awaited anyone who collaborated: "that any man or woman from any status or social category, does not dare to throw out male or female slaves who have fled, under penalty of being hung".²⁸ Before the end of the fourteenth century, a similar system was set up in Perpignan.²⁹ When this system was applied in Valencia in the following century, it also differentiated the treatment the slave received according to his or her religion: the infidel would be dragged and hung (*rocegat e penjat*), while those who had been baptised would be directly hung (*penjat*), avoiding all the prior mistreatment.³⁰ Until the arrival in Catalonia of numerous slaves from the eastern Mediterranean, most were Muslims, either pirates seized in the fourteenth century or, especially, captives from the earlier expansion on the southern frontier.³¹

At the same time, there were free Muslims living in Catalonia. The final conquest of the south-eastern area of the country came about in 1148 and 1149 through agreements between the count of Barcelona and the isolated Muslim forces in Tortosa and Lleida, abandoned to their fate by the decline of the Almoravid Empire and the attempts to establish an Andalusian kingdom in the south-east of the Peninsula.³² The Muslim elites had gradually been abandoning these lands³³ on the edges of Islam over the previous decades,³⁴ so the count conquered an Islamic population with low social and economic prestige. These people were expelled from their homes into the countryside to be concentrated in large rural villages³⁵ and to the urban centres, Tortosa and Lleida, to build and live in specific neighbourhoods (*moreries*) beside the walls, thus leading to the rise of specific neighbourhoods

for the religious minorities. There were neighbourhoods for Muslims and others for Jews, the latter coinciding with where they already lived under Muslim domination.³⁶ By adopting Christianity in a philosophically and theologically realist sense as the defining axis of society, the population and their rulers assimilated the fear of the wrath of God on a society that tolerated the enemies of the Christian religion excessively. It was feared that this would take the shape of very varied punishments, beginning with the fickleness of nature and a climate that damaged crops.³⁷ So it is not surprising that there was a gradual spread of intolerance that emphasised the segregation of Jews and Muslims within the urban morphology³⁸ and that the municipal norms had to define social relations.³⁹ Understandably, throughout the Crown of Aragon where members of the three cultures coincided, the religious and civil authorities clearly tried to stop sexual relations outside each one's own religious groups, and to punish any such relations harshly enough to demonstrate the inherent seriousness of these acts.⁴⁰ The Customs of Tortosa reveal how these relations were viewed since they stipulated the harshest and cruel punishments; death by fire if the woman was a Christian and dragging if the man was a Jew or a Muslim: "if a Jew or Saracen is found lying with a Christian woman, the Jew or Saracen should be dragged and the Christian must be burnt in a way that they die".⁴¹ There was room for exceptions. These included women if they had been forced into the act or tricked because their partner was dressed as a Christian: "except if the women was forced or he was dressed like a Christian and she was misled, and in this case she will not be punished and he must be dragged until death".⁴²

These concerns were widespread throughout society. There was a shared conviction that capital punishment had a deterrent effect on the behaviour of the population and so benefitted the preservation of the existing order interpreted as what God wished. Understandably, the development of municipal ordinances in the main cities and towns under royal jurisdiction gradually came to include capital punishment, especially as the fourteenth century went by, with its inherent difficulties and fears. In 1340, the municipal authorities in Tortosa very clearly decided to increase the aforementioned corporal punishments for robbery as a response to what they considered was a wave of violence. According to the reasoning of the authorities, robberies were increasing because of the malice of certain persons, which could only be combated by increasing the fear of punishment, in other words, by heightening existing fears:

Given that the evilness of the evildoers grows, many and diverse robberies start to be done by bad people in the above-mentioned city, by night and as well as by day, which is why it is necessary to proceed

against such misdeeds through the application of punishments which are enough to punish the guilty and to set an example for the other people.⁴³

On the one hand, given the medieval interpretation of the municipality as reflecting group solidarity among all the neighbours⁴⁴ the punishment through banishment became serious, and would be applied to a thief who had stolen a large amount of money or available things: “for robbery and theft that he had taken goods worth one hundred shillings or more”.⁴⁵ It was especially the corporal punishments that were increased. Where it had previously been said that the thief’s ears would be cut off for stealing more than 30 shillings, they were now lost for between 5 and 15. Where a hand was previously cut off when over 60 shillings were stolen, it was now lost for the theft of valuables between 15 and 30 shillings, while for between 30 and 60, his right hand and the ears were amputated. Reoffending led directly to capital punishment: “if again he be seen or found in any of the cases stated above, he should be aware that he be hung with mercy so that he dies”.⁴⁶ This increase in the harshness of punishments was mainly linked to the conviction that society had to be corrected and led by instilling fear of retribution. That is why it was stated that the increase in the severity of the sentences was necessary to decrease the levels of delinquency. In the previous chapter, we saw how in 1424 in the Pyrenean Àneu Valley the level of punishment for robbery also increased, notably by extending the application of the death penalty. It was considered that not to do so from the start was in fact encouraging delinquency.⁴⁷

Urban life, and its regulation, were tense. The elites worked to protect themselves from the growing social groups, while the population distrusted the equanimity with which the local leaders spread the fiscal burden⁴⁸ or even whether the latter acted righteously or, if, on the contrary, they speculated with the common people’s difficulties to benefit themselves economically.⁴⁹ The marked fragmentation into factions, that split the whole society and ended up dividing each town or city into two groups,⁵⁰ became the first resort of solidarity and help with any kind of difficulties, even social ones.⁵¹ However, group solidarity led to fierce tensions and the use of intimidatory measures against members of the opposing factions. The fear that the tensions between factions could not only destroy the harmony in a town, or even its progress, by deterring activities like trade and the discredit this meant for the institutions, led local governments to intervene.⁵² They passed ordinances that again resorted to intimidation and, with it, the death penalty, to guarantee peace, reduce the tension in the streets and minimise the harm that could befall goods and people. So, the urge to limit the violence that

had spilled into the streets with the confrontation between opposing factions led to measures such as those proclaimed in 1341 in Tortosa. There, an attempt was made, with the threat of the death penalty, to limit the unlawful use of crossbows and bows which resulted in death for an adversary. This was seen to be coherent with the local custom that decreed that whoever killed, died:

if he who with the crossbow or bow using arrows, according what is said, wounds someone, and the injury or blow leads to death, in this case the custom that states ‘who kills, dies’ shall be followed.⁵³

Special attention was paid to the use of poison on arrows, so that the punishment for anyone who used poisoned arrows would always be death, even if the victim survived. Furthermore, the punishment in this case was especially cruel, because death came while the convict was being dragged through the streets: “and he who with crossbow or bow shoots poisoned arrows against anyone, if they are wounded ending dead or alive, must be dragged until he dies”.⁵⁴

With an identical concern, in 1373, in Barcelona it was proclaimed that the mere use of a crossbow to attack another person meant the death penalty: “that no man of any condition dare to fire openly nor covertly with a crossbow against any person, and he who does be hung or lose his head without any mercy” (see [Figure 7.1](#)).⁵⁵

Figure 7.1 Drawing depicting a hanged man on the margin of a register of announcements in Barcelona beside the ordinance that imposed the death penalty on anyone who fired a crossbow against anyone else. A crossbow is drawn above. 1373 (AHCB ABVB X-2, f. 74r)

The municipal government in Barcelona also tried to use capital punishment to reduce the common practices in conflicts between factions within the cities, such as assaults on the homes of rivals,⁵⁶ as it proclaimed in 1372⁵⁷ and the following years:

That no man of any estate or condition, private or foreign, shall dare either by day or night to force entry into any home of another nor combat nor assault the home of anyone in the city, whether citizen or other. And if he who disobeys is a minor noble or honourable citizen he shall lose his head, and if he be a common man he shall be hung by the neck with no mercy.⁵⁸

The failure of these measures to slow the rise in clashes between factions did not reduce confidence in the intimidatory nature of capital punishment but rather accentuated it. In 1397, in a Barcelona seriously affected by confrontations between rival groups,⁵⁹ the death penalty came to be envisaged for anyone who simply promoted public disorder:

The councillors and eminent citizens of the City of Barcelona order

that any person of any condition and estate dares in the said City to provoke disturbances or fights shall do so under penalty of death, that is, that if he is a minor noble or honourable citizen that be beheaded and if he is another that he be hung.⁶⁰

In turn, the tense climate increased the typical fears of late-medieval mentality, such as that of poison.⁶¹ Accordingly, specific measures were taken against their use, which could be with *realgar* (arsenic sulphide) or other easily obtainable products, such as venom for rodents⁶² or ingredients in medicines, which explains why a spice merchant could be sentenced to death for selling his wares without due care about their use:

That no spice merchant nor his wife nor any messenger of his nor any merchant or other person of any estate or condition shall dare by day or by night openly or secretly to sell or give or hand over to any person *realgar* or other poisonous things or any who has with him poison if he is not a doctor or other person who has the trade to put it in medicine.⁶³

The measure was reinforced even further by obliging spice merchants, also under the threat of the death penalty, to control the destination of any toxic substances: “that the person who sells it or will sell or deliver it, must be present when the product is put into the medicine, and anyone who fails to comply will be hung without pity”.⁶⁴

The death penalty was also applied to prevent other fugitives, prisoners of war, from fleeing. The tensions over Sardinia led to various outbreaks of hostilities with Genoa, and that highlighted the competition between the Catalan-Aragonese crown and the Ligurian republic.⁶⁵ These clashes led to the arrival of prisoners, “*tamque inimicos domini Regis Aragonie*”, who all sought to escape from the country. In 1332, some Genoese escaping from Barcelona were caught in Cerdanya, close to France.⁶⁶ The open war that broke out in the mid-fourteenth century⁶⁷ meant a large number of Genoese prisoners, especially in 1355. These were distributed around Barcelona and other royal towns, like Cervera, from where they also tried to escape.⁶⁸ In cities like Barcelona, the captives were distributed by assignment (*en comanda*), and thus came under the responsibility of certain Barcelonan citizens, who could exploit them for work. Given the repeated escapes, the city authorities resorted to the death penalty to avoid collaboration by those who, to avoid having to look after the prisoners, helped them to escape: “that nobody in the city nor outside the city shall dare to make any Genoese flee nor give them help or encouragement to flee, under the threat or punishment of being hung without mercy”.⁶⁹ The detention of these Genoese captives generated various problems due to prisoners being held in unauthorised private

places—*carçie privat*—, as mentioned in Tortosa.⁷⁰ Finally, once peace was made with Genoa and with another conflict, this time with Castile, on the horizon, this system of prisoners by assignment was shut down. It was announced in Barcelona on 3th March 1356: everyone in the city and its territory who has been assigned or has received one or diverse Genoese must return them during next Monday and put them into the New Castle (*Castell Nou*) of the city.⁷¹

More generally, in times of armed conflict, fears increased that any weakness of the authorities would be seized upon by those who harboured criminal tendencies. To compensate for this, deterrent measures including the death penalty were adopted under the guise of guaranteeing the preservation of order. In January 1369, with the urban militia of Tarragona out of the city by order of the monarch, the municipal government tried to ensure public order by decreeing capital punishment for suspicious strangers found in the city, although the measure was applied through the ordinary court of justice: it is approved that all strange men that are vagabonds and suspicious have to leave the city, and if found in city until the militia return, be hung by the neck, but the punishment shall be that which the Ordinary Court wishes to order.⁷²

In 1461, the municipal government of Barcelona noted that there was a high floating and unstable population of immigrants in Barcelona, mainly Gascons and Castilians. In response, it decreed an immediate death penalty for anyone in the city without being settled, in other words, without residing somewhere they owned or rented, or with a family member, such as a spouse: “from now to tomorrow throughout the day, any Gascon and Castilian who does not have a wife or have his own house owned or rented in Barcelona must leave, under sentence of death”.⁷³

Urban security would worsen even more because of the increasingly general crisis in cereal supplies that hung over fourteenth-century society.⁷⁴ The various crises of supply in the thirteenth century in the Crown of Aragon, and particularly Catalonia, had been compensated for with imports from Sicily,⁷⁵ which had been incorporated into the orbit of the Crown in 1283 despite severe international tension.⁷⁶ However, in the early fourteenth century, there were five series of periods of shortage: 1300–1304, 1309–1311, 1315–1317, 1322–1327, 1333–1336.⁷⁷ While sales due to hunger and necessity can be documented from the countryside,⁷⁸ in the towns and cities the power of the municipal governments to regulate and control the local markets to ensure supplies and so limit price rises were put to the test.⁷⁹ In this situation, the severe hardships of 1333 shook up all the municipalities,⁸⁰ being recalled as “the first of the bad years”.⁸¹ In this context, the municipal governments adopted harsh measures including

the death penalty to ensure public order. In Tortosa, between mid-June and the end of July 1334, in other words harvest time, stealing grain from the fields at night or from the storehouses was punished by death.⁸² And, as we have seen, in April of the same year in Barcelona there had been a revolt, which the procurator general had quashed by applying death penalties.⁸³

After serious problems in the years before and after the Black Death of 1348,⁸⁴ the great crisis in food supplies arrived in the 1370s. Following various periods with difficulties, the three year period from 1374 to 1376 was the worst for food supplies in Catalan cities and towns.⁸⁵ In 1373, the municipal authorities in the city of Barcelona tried to protect grain supplies and prevent theft with the same threat of the death penalty as an aggravating factor for crimes committed under cover of darkness:

That no person of any estate or condition dare steal wheat, barley or other cereals or other merchandise or other things by day or by night in the Wheat Square (*Plaça del Blat*) nor in the Sea Porch (*Porxo del Mar*) nor in the Ribera. And he who goes against this at night shall be hung without mercy in such a way as to die. And he who goes against this by day shall pay for each time five hundred shillings and no less shall be taken round the city to the usual places with great beating.⁸⁶ As we have seen, in the same situation of shortages, in 1374 the city government of Tortosa opted to have gallows erected in one of the central squares with a view to infusing fear among the population and so stopping them from rising against the municipal authorities. The use of intimidation was appropriated by the municipality: “that in the middle of the Cabbage Square (*Plaça de les Cols*) gallows will be erected and built to give terror to the people, in order to stop them moving against the councillors of the city for the shortage and scarcity currently present in the city”.⁸⁷ From this, one can deduce that this intimidation was included among the measures to guarantee the social order. However, it was also among the measures designed to protect the municipal government, and in the case of Tortosa, it was invoked for the protection of the councillors. Thus, it is no surprise that in Cervera in 1411, when there was concern about possible action by the town’s numerous creditors, the council opted to intimidate them by building four scaffolds and two pillories.⁸⁸

At the same time, these measures reflected a clear social concern. This path, common throughout Europe,⁸⁹ was a steady move towards the criminalisation of marginal elements, in line with the view that would dominate the following centuries.⁹⁰ The municipal ordinances in the first third of the fourteenth century in Barcelona encouraged charity for the disfavoured: “that everyone can give and offer to poor people all that they can wish, for the sake of the love of God”.⁹¹

However, after the crisis in mid-century, the aim was to avoid an avalanche of the poor moving to the capital from the country, particularly from the parts that had suffered directly from the ravages of bad harvests, without trade or benefit, which was related with the increase in criminality. These uncontrolled immigrants were ordered to leave the city and, in the case of recidivism, were given death sentences. This was proclaimed publicly in 1375 in the midst of a very deep crisis of subsistence⁹²:

Now hear you by order of the vicar, that as many poor people from the fields of the Urgell and other places in Catalonia and even from other foreign parts have come to the city of Barcelona and as many of them really wander around the City begging and many of them are vagabonds who do not want to do any work; so the said councillors and eminent citizens of the said city order that all the said persons, both men and women, those who beg and are vagabonds within the next four days must be under a lord or lady earning their food taking a trade and working with their hands, and shall never beg and be vagabonds; or within the said four days be outside the said city and its territory and limits. If not, after the said four days they shall be expelled from the said City, beating them, and if they are found again they shall be hung by the neck with no mercy.⁹³

Attempts to bar access to the city for poverty-stricken peasants coincided with the measures taken by other European cities similarly seized by fear of impoverished immigration.⁹⁴ The social and economic difficulties were perceived by the population through the filter of a collective and accepted realist religious experience, fearing the wrath of a highly anthropomorphised God,⁹⁵ who discharged his wrath on the populations that disregarded his will, as the preachers emphasised.⁹⁶ In 1371, the high rate of adultery in Elche, for example, led its local councillors to deduce that this was why it did not rain. Then, the local authorities had no doubt that the drought was a measure imposed by God to punish the moral disorder: “for this sin of ours our lord God stopped sending rain from the sky, which is very necessary”.⁹⁷ All the difficulties with grave consequences that the people faced, like problems of food supplies, natural disasters or epidemics, were ultimately due to God’s wrath because society, considered as a body, did not respect his will. Consequently, the local rulers had great responsibility for the misfortunes that afflicted them, because they should use their authority to orientate behaviour towards what pleased God rather than that which provoked his ire.

This was the message transmitted by the preachers who visited the towns and cities to address the masses.⁹⁸ Some of them accused the local authorities of foul play by speculating with prices or even hoarding and monopolising grain at times of scarcity. This is what the

Carmelite friar, Bernat Puig, alleged during the severe grain shortages in 1333, claiming that this was the reason why God punished the city with tribulations with food supplies.⁹⁹ However, the most widespread accusation against the municipal authorities was for not having known how to placate the divine wrath by orientating the people adequately. In his sermons, the most famous preacher of the time, Vicent Ferrer, did not hesitate to emphasise this great responsibility of the municipal leaders, because they had a double duty, one to themselves and another to guide the people. According to how they proceeded, they could draw God's wrath down on the place they ran:

they are those who must give an explanation about themselves and the others, because they are counsellors of the towns, which is why they must be attentive to rules preventing the six usual things that are sins, and in the case they do not do, it the wrath of God will fall on them and, also, over the town they ruled.¹⁰⁰

By highlighting six sins that had to be combated by the local councils given their seriousness, this Dominican was referring to the idea that God's wrath would befall society if the authorities tolerated blasphemy, the superstitions of fortune tellers, non-observance of the holy days, gambling, prostitution and tolerance of the Jews. Closely in line with these sermons, the majority of municipal governments dictated ordinances aimed at preserving the moral order preached by the Church, explicitly penalising blasphemy, gambling, tolerance of inassimilable ethnic-religious minorities or sexual promiscuity. Given the situation, the mandate was fulfilled with adequate, and sometimes distressing, force and resorting, if need be, to the death penalty. Thus, in Tarragona, at the beginning of the fifteenth century, the municipal council imposed legislation based on moral criteria. They justified this precisely because coercive measures were required as only the fear and love of God was not enough to guide the behaviour of the city's men and women:

human thought is orientated, by natural and human law, to avoid sins and illicit things, but, corrupted by liberty and the use of sinning, it is excited, more frequently than usual, to perpetrate big sins in different ways. This is the reason why we, from our modesty, wish to prevent and prohibit the temerarious audacity and presumption of the delinquents through temporary remedies, given that the fear and love to God is not enough for these people to leave evil.¹⁰¹

With this approach the city council of Tarragona imposed new measures. These included the obligation to make known the cession of assets due to debts, and others focussed on sexual relations, aimed at limiting adultery, marriage without the consent of the family, extramarital relations, whether by force or consent, relations with widows or with virgin servants. These sought to intimidate through

finest, public shame in some cases—“she be whipped through the city naked but for a garland of knapweed on her head”¹⁰²—and resorting in two cases to capital punishment applied when honour and the social order were affected. In the first of these, a man entered another’s house and had relations with one of the women of the household, be it the wife, daughter, servant or slave. Then there was a man who, being in the service of another, had relations with one of the latter’s daughters or slaves:

First, we order that everybody that by night or by day enter in the house of someone to have sexual rapport with a wife, daughter, servant or slave of the owner, will die without any hope of mercy. The women who has taken this sexual rapport, in the case she has not been raped, if she is a wife, will lose half of her dowry and other rights from their wedding agreement, which will be offered to her husband, and nothing more if in other way he wishes to punish her according to the law; if she is a daughter, she will lose the legitimacy, which goes to her father, although the honourable court of the vicar will receive a third of half of the dowry and the legitimacy lost by the wife or the daughter. Similar punishment will be given to a widow who remains in the house where someone did the crime or in case she consented. And in the case she is a servant, she will remain all naked in public shame, that is in the pillory, ated until our Lord is risen up, and she will lose her salary, a third of which goes to the honourable court of justice, another third to the accuser and the other third to the city. And if she is a slave, she will be lashed running naked through the city.

(...) Each servant living in the house of their master who holds sexual relations with the daughter of their master will be killed, and if she is a servant, she will be lashed by the city, and in the case he abducts the daughter or the slave belonging to the lord with which he cohabited, will be hung by the neck until he dies.¹⁰³

The fear of tolerating the enemies of God, and thus provoking his wrath, multiplied the bylaws that emphasised the separation of those, like the Jews, considered to be his enemies.¹⁰⁴ The tensions experienced in the fourteenth century had led to an increase in conversions and, with these, suspicions about their sincerity. Although a new social group was created, one that lived between the mistrust of the Christians and the orthodox Jews,¹⁰⁵ the converts did not suddenly change their habits and customs and consequently, in the words of Asunción Blasco, “the convert act as a Jew—‘judaised’—because he had lost his identity traits, because he needed to cover a space that the new faith had been unable to fill”.¹⁰⁶ From the Christian side, it was suspected that this situation led to continuity in the relations between the converts and their old coreligionists because

of the perversity everybody attributed to the Jews. So municipal ordinances were passed that aimed to prevent contact between converts and Jews, something considered highly contaminating for the Christian faith.¹⁰⁷ However, the processes of conversion had caused real family ruptures, thus reflecting a line that had tried to make a separation between those who were united by cultural identity and, in some cases, family links. Understandably, the true relations between converts and Jews could be in some cases even sexual. Reflecting this serious moral interpretation, the local government of Barcelona in 1399 decreed the death penalty for those in this situation.¹⁰⁸ It is not by chance that this measure was applied in the same period when the municipal ordinances were accentuating the discrimination against the Jews in three aspects which had a strong social impact: their clothing, place of residence and the selling of meat slaughtered according to their rites.¹⁰⁹

Indeed, the death penalty fell into the hands of the municipal authorities who converted it into an instrument for guaranteeing moral order and social peace. Through this attitude, municipal governments showed that they were the representatives of the local collective¹¹⁰ and they assumed the ideological dictates for social cohesion, in accordance with the contemporary interpretation promoted by the Church.¹¹¹ Their legislation reflected the desire to overcome the difficulties the population was immersed in, either by working not to increase these by provoking divine wrath or, more directly, trying to recover, preserve and maintain public order. Thus, there was a predominance of dispositions aimed at containing what was happening in the street. These concerned fighting between members of factions, assaults on their respective homes, disturbances caused by beggars, etc. By using legislation in this way, the governments of the large municipalities were appropriating the royal power to legislate and determine the reasons for imposing the death penalty. In reality, there was not the slightest desire to remove this capacity from the royal sphere, quite the opposite, the aim was to participate in this royal power, taking control of and promoting the officials charged with maintaining royal jurisdiction.

Similarly, the municipal government presented itself as the guarantor of royal justice in the region with the aim of contributing to jurisdictional homogenisation of the area where most of the urban elite's investments were concentrated.¹¹² With this in mind, the local magistrates invented various strategies to contribute to returning nearby places to the royal jurisdiction which the monarch had ceded as guarantees for a loan (*a carta de gracia*) with the right to repurchase.¹¹³ Thus in 1360, continuing the policy in the mid-fourteenth century, the city of Girona acquired a series of nearby

places (Bascanó, Aiguaviva, Vilobí, Campllong, Riudellots de la Selva, Medinyà, Madremanyà, Cervià, Pubol, Bordills, Juià and Orriols), so that it immediately took possession of these places, with all the common ceremonial practices, including the intimidatory invocation of the death penalty for those who did not obey the city's mandates. However significantly, the person who had to apply the jurisdiction was not a civil servant designated by the municipality, but rather the royal officer, because the aim was none other than to contribute to the homogenisation of royal jurisdiction to complement the city's position as the capital, with the intention of interpreting this through the interests and mediation of the urban elite.¹¹⁴

With the same aim of reinforcing control over the town and region through an ordinary jurisdictional officer, the specific place for this judicial and punitive centre could be a subject to dispute among the affected towns. Within the royal jurisdiction, Olot did not want to belong to the district or vicarage of Camprodon, which would symbolise a position secondary to the capital of the district. It demanded an institutional recognition of its own significance and a particular radius of influence, which led to negotiations between the two towns. These culminated in 1401 with an agreement that conditioned the royal district representation in the area by determining that a deputy of the vicar of Camprodon should act in Olot, delegated with full powers except for offences that could involve the death penalty or mutilation, which had to be overseen by the vicar in the centre of the district, Camprodon.¹¹⁵ An agreement between the two municipal governments defined what really belonged to the sovereign: how the king's jurisdiction should act in the area, placing the point of separation on the death penalty. So, while the delegation of powers allowed Olot to become an administrative centre, the fact that Camprodon retained the death penalty, with the obligation for culprits to be taken there when they had to be executed, was what symbolised this superior position.

A similar dispute took place between Barcelona and Terrassa. In this case, it was a question of trying to display the centrality of the important city of Barcelona over the neighbouring region of the Vallès where the Barcelonan elites had woven a network of investments and interests.¹¹⁶ This was a position that it was intended to link Terrassa to Barcelona, as in other nearby places, through the city's bailiff.¹¹⁷ However, the complaints by the local representatives forced various details to be modified. The situation was even further complicated by the ascendancy of the viscount of Cardona over the town of Terrassa.¹¹⁸ In these circumstances, in 1339, King Peter the Ceremonious, upon the request of the representative of Terrassa, defined the functions of the respective royal officials and placed the

key point on the death penalty: the crimes that merited this would be tried in Barcelona but applied in Terrassa.¹¹⁹

Thus, while the death penalty was an indicator of the highest jurisdictional power, control of punishment by the local authorities came to signify access to, or even monopolising of, its optional exercise by local power. At the same time, through this access to the death penalty, the municipal authority was exercising and demonstrating its actual social, economic and political leadership of the city over its region of influence. Based on this local power, a change of lordship hardly modified the attitude. The pretensions of the Order of the Knights Hospitaller to enjoy full jurisdiction in the Hospitaller preceptory of Ulldescon¹²⁰ clashed with the closer city of Tortosa. The latter defended the full power of the vicar as a district officer¹²¹ promoted when the holder was the king or when, between 1329 and 1363, Prince Ferdinand held the new marquisate of Tortosa.¹²² The application of a death penalty by the vicar of Tortosa in Ulldescon in 1330, with all what that meant, was backed not by the holder of the district, but by the city. The latter paid for an ostentatious journey by the vicar to execute the sentence, paying for the animal the district official rode on (“one animal on which the vicar rode”) and a large following made up of the local assistants for justice—the *paers*—, the scribe and twenty-three men (“twenty three men who followed the vicar when he went to Ulldescon to hang one man in the said place”), reinforced by eleven more from the neighbouring place on the limits of the district, La Pobla de la Galera, as well as the carpenter who built the gallows in Ulldescon (“who built the gallows in Ulldescon”).¹²³ In short, the gallows belonged to he who built them, and it was necessary to make a clear display of this by the municipal government, not of the place itself, but rather of the capital of the region.

In all municipal actions there was a political point behind the facts. Given the jurisdictional significance of the death penalty, by promoting the arrest for trial of whoever deserved this in Sant Boi de Llobregat, the council of Barcelona demonstrated its full domain over the so-called Territory of the City.¹²⁴ They were involved in a serious jurisdictional dispute with the lord of Torrelles,¹²⁵ this was the reason why the city claimed against him when he acted judicially in Sant Boi de Llobregat.¹²⁶ The municipal government of Barcelona strained its efforts to stop the growth of baronial power over the called Territory of Barcelona because it interpreted this as its region of influence and expansion. Certainly, the city’s elite had devoted the majority of its investments to this space, which became the basis for the large projections and ambitions of Barcelona as a capital of the whole country.¹²⁷

This was showing the strength and global nature of the urban centres, which were imposing specific structures on their respective territories.¹²⁸ In this scenario, as the royal towns and cities gradually incorporated the death penalty into the strategies of urban pre-eminence, they were really displaying the progressive monopolisation of the royal jurisdiction behind this, with the consequent significance in the controversial power game between the Crown and the estates. The government in the central place culminated this vision by understanding that their power and influence should correspond to their leadership over the city, the surrounding area and the country, guiding the other royal cities, monopolising the representation of the *terra* (land) by leading the estates¹²⁹ and, with all that, taking over from the sovereign. It is no surprise then that the political motivations of those who controlled the city government ended up strongly reflected in judicial action. In 1462, just before the civil war, the repression of the so-called Saint Matthew plot in Barcelona¹³⁰ became a clear settling of scores with the faction opposed to the one that had now seized power. Thus, what the six death penalties imposed really showed was the rise of the oligarchy in the city by monopolising the municipal representativeness to sentence according to their own collective interests, although always in the name of the public good. Capital punishment was carried out in their name, as Jaume Safont narrated in his diary with regard to the first two executed:

Wednesday, the 19th of May 1462, at 10 o'clock before lunch Francí Pallarès, second councillor, and Pere Torrent, junior, citizens of Barcelona were strangled in the prison of the vicar of Barcelona, accused of having done a great plot or connived in the said city, in which, according to what appeared in the trial that we were given, they had discussed doing very great misdeeds and causing great damage and destruction to the *res publica*, and to the citizens of that city..¹³¹

This measure was so unusual that it had been taken in a night-time meeting of members of the General Deputation (*Diputació del General*), or permanent delegation of the Parliament, in a very tense atmosphere, and was followed by the drowning of two more councillors and the hanging of another.¹³² The deputies and the city's councillors wrote to the country's authorities justifying it, thus reflecting the use of the death penalty in the midst of great political tension. We shall return to this event and these circumstances,¹³³ but we must mention it in this chapter about the death penalty and the municipality because, beyond the legal and political considerations that surrounded the case, it undoubtedly became the leading sign of the use of the death penalty in municipal leadership, especially by the city that aspired to lead the country.¹³⁴

Indeed, the development of municipal governments, in other words, the rise of the bourgeois elites to monopolise power, led them to take over the power to impose the death penalty. In this sense, the evolution of power, that is, its monopolising and exercise either thanks to jurisdictional control or through representativeness, always passed through the threat of the death penalty. This had allowed the behaviour to be punished to be graduated until the last legal consequences, always expressed in the municipal ordinances, which at the same time showed the great municipal power. It would thus be worth contrasting this use as reflected in the legislation and language of power with the experience and effective application of this extreme measure of punishment.

Notes

- 1 Antoni Virgili, *Ad detrimentum Yspanie. La conquesta de Turtusa i la formació de la societat feudal (1148–1200)*. Universitat Autònoma de Barcelona—Universitat de València, Valencia, 2001.
- 2 Josep Lladonosa, *La conquesta de Lleida*, Rafael Dalmau editor, Barcelona, 1990.
- 3 Emeteri Fabregat, *Burgesos contra senyors. La lluita per la terra de Tortosa*, Arxiu Històric Comarcal de les Terres de l'Ebre, Tortosa, 2006.
- 4 Flocel Sabaté, *Història de Lleida. Alta edat mitjana*, Pagès editors, Lleida, 2003, pp. 355–366.
- 5 Flocel Sabaté, “El veguer i la vegueria de Tortosa i Ribera d'Ebre al segle XIV”, *Recerca*, 2 (1994), pp. 115–141.
- 6 Pilar Loscertales de Valdeavellano, *Costumbres de Lérida*, Universidad de Barcelona, Barcelona, 1946, p. 66; *Els Costums de Lleida*, Ajuntament de Lleida, Lleida, undated, p. 109.
- 7 Loscertales de Valdeavellano, *Costumbres de Lérida*, p. 71; *Els Costums de Lleida*, p. 112 (the second edition indicates LXXXXaIIIIor, an erroneous figure because the original coincides with the figure in the first edition [AML, Llibre Verd Petit, f. 91v]).
- 8 Joan B Manyà, “Lleida i la Catalunya transibèrica”, *Les terres de Lleida en la geografia, en l'economia i en la cultura catalanes*, Centre Lleidatà a Barcelona—Editorial Pòrtic, Barcelona, 1971, pp. 239–243.
- 9 *Pro furto membrum absconditur vel ultimum suplicium inferatur prout faciendum videbitur iudicandi*. Serrano Daura, *Els costums d'Orta (1296)*. Estudi introductori i edició, Ajuntament d'Horta de Sant Joan, Horta de Sant Joan, 1996, p. 94.
- 10 “Per furt corre hom vila o tol hom membres o a la per fi es hom jutgat a mort segons la quantitat e la qualitat del feyt si és lladre manifest”. Josep Serrano Daura, “L'ordenament jurídic-penal de l'antic dret local a la Torre de l'Espanyol (Ribera d'Ebre)”, *Quaderns d'Història Tarraconense*, 7 (1988), p. 71.
- 11 Ana María Barrero, “Las costumbres de Lérida, Horta y Miravet”, *Anuario de Historia del Derecho Español*, 44 (1974), p. 518.
- 12 “Per furt correch hom vila o toll hom menbres o a la per fi es hom jutgat a mort segons la quantitat o la qualitat del feyt, si és ladre manifest”. Ferran Valls i Taberner, *Els Costums de Miravet*, Càtedra d'Història del Dret i de les Institucions (Universitat de Màlaga), Saragossa, 1992, p. 43.
- 13 “qui machinarà mort de príncep, so és saber, del rey e a sos fils, deu morir”.

Costums de Tortosa, 9.24.2; Jesús Massip, ed., *Costums de Tortosa*, Fundació Noguera, Barcelona, 1996, p. 485.

- 14 “si alcun hom usa a luxúria ab altre hom, que deu perdre lo cap en axí que muira”. *Costums de Tortosa*, 9.24.3; Massip, ed., *Costums de Tortosa*, p. 485.
- 15 *Costums de Tortosa*, 9.2.1–9.2.3; Massip, ed., *Costums de Tortosa*, p. 414.
- 16 “ajustament carnal aurà ab la muyler d’aquel seynor o ab sa fiyla o amb sa neta o ab sa germana o ab sa parenta que sia en lo quart grau ab lo seynor”; “si alcun està ab seynor e menge son pa e pren soldada d’él o està en cosiment del seynor o pren benifeyt d’alcú de menjar, que estia en son alberch d’aquel qui fa lo benifeyt”. *Costums de Tortosa*, 9.2.4; Massip, ed., *Costums de Tortosa*, p. 415.
- 17 “tot hom e tota fembra qui ociurà altre en la ciutat o en qualque loc del terme de Tortosa públicament, sie pres e condempnat e liurat a mort”. *Costums de Tortosa*, 1.1.14; Massip, ed., *Costums de Tortosa*, p. 12.
- 18 “si alcun hom ocíu o mata a altre e acusat ne serà e serà provat contra él (...), lo matador deu ésser penjat en tal manera que muyra, per sentència dels ciutadans”. *Costums de Tortosa*, 1.1.14, 9.24.4; Massip, ed., *Costums de Tortosa*, p. 485.
- 19 “alò metex çés e aquela pena deu sostenir qui ab verí o ab metzines, o per altres encantaments, ocíu ne mata a altre, però és elecció de l’accusador que el pot acusar de mort, o a la pena de l’omecidi en diners”. *Costums de Tortosa*, 1.1.14, 9.24.4; Massip, ed., *Costums de Tortosa*, p. 485.
- 20 Jesús Massip, *La gestació de les Costums de Tortosa*, Consell Intercomarcal de les Terres de l’Ebre, Tortosa, 1984, p. 239.
- 21 “d’aquest ordenament e d’aquesta costuma sien exceptats jueus e sarayns, los quals sien emenats si hom los ocíu, segons que és estat acostumat tro al dia d’uy en Tortosa”. *Costums de Tortosa*, 1.1.14; Massip, ed., *Costums de Tortosa*, p. 12.
- 22 “Si emblarà en diners o en coses valens tro a V sous, ab la pena que dret y dóna, per cascun sou deu pendre, si no a de què fassa la emena, sengles assots. E si de V sous en amunt, tro a XV sous, deu córrer la ciutat, tot nuu en brages, lo says él assotan e cridan: ‘qui aital farà aital pendrà’. E si de XV sous en amunt, tro a XXX sous, deu ésser seynat e el front ab ferre ab ferre calt, e tot nuu en brages deu córrer la ciutat, lo sayg él assotan e batén e cridan: ‘qui aital farà aital pendrà’. E si de XXX sous en amunt tro a LX sous emblarà, o coses valents, deven-li ésser toltes les orelles, e tot nuu en brages, deu córrerla ciutat penjan les orelles al coy l en una corda, e el sayg él batén e cridan: ‘qui aital farà aital pendrà’ e deu ésser gitat de la ciutat. E si de LX sous en amunt, en diners o en coses valents, emblarà tro a C sous, deu perdre la man dreta. De C sous en amunt, si seran enblants en diners o en coses valents, deu ésser penjat en guisa que muira. (...) E si tant és que en partida pusca fer la emena o en partida no, segons so que remandrà e segons la quantitat, deu soffrir la pena sobredita e deu-li ésser minva de la pena, segons que pagarà ne restituirà de la cosa e de la pena.”. *Costums de Tortosa*, 9.25.22; Massip, ed., *Costums de Tortosa*, pp. 494–495.
- 23 Flocel Sabaté, “Gli schiavi davanti allà giustizia nella Catalogna bassomedievale”, *Schiavitù e servaggio nell’economia europea secc. XI–XVIII / Serfdom and Slavery in the European Economy 11th–18th centuries*, Simonetta Cavacciocchi, ed., Firenze University Press, 2014, pp. 398–402.
- 24 “si alcun per engan embla persona franca o catiu o cativa, o per aventura lo reebrà en sa casa, per so que el cel con serà en fuita, o serà furtat o enblat per aquela raon, que sos amics de la franca persona o el seynor del servu o del catiu de la cativa los perden, con serà provat contra él, deu ésser

rossegat e puix penjat in guisa que muira”. *Costums de Tortosa*, 9.24.6; Massip, ed., *Costums de Tortosa*, p. 486.

- 25 “si algun catiu fugirà haie esser sguarrat si son senyor ho volrà e ho requerrà al vaguer”. Dimes Sancho, “La esclavitud en Barcelona en los umbrales de la Edad Media”, *Estudios Históricos y Documentos de los Archivos de Protocolos*, 7 (1979), p. 269.
- 26 AHCB, fons municipal, consell de Cent 1, llibre del consell 19, f. 91r-92v.
- 27 “que tot esclau e esclava qui serà trobat fugent o que és de fugir, si és sarreyn o sarreyna serà rossagat e penjat, si és grech o grega o batejat o batejada, sarà penjat”. AHCB, fons municipal, consell de Cent 1, llibre 18, f. 14r-v.
- 28 “que nangun hom ne nangun fembre de qualque lig o condició sia no ych gos traure esclau o esclava qui fuga per terra sots pena de penjar”. AHCB, fons municipal, consell de Cent 1, llibre 18, f. 14v.
- 29 Roser Salicrú, “Entre el reclam de les terres islàmiques i l’escapada septentrional: la institucionalització de la por a les fugides d’esclaus a la Catalunya tardomedieval”, *De l’esclavitud a la llibertat. Esclaus i lliberts a l’edat mitjana*, Maria Teresa Ferrer, Josefina Mutgé, eds., CSIC, Barcelona, 2000, pp. 100–110.
- 30 Miguel Gual Camarena, “Un seguro contra crímenes de esclavos en el siglo XV”, *Anuario de Historia del Derecho Español*, 23 (1953), p. 248.
- 31 Sabaté, “Gli schiavi davanti allà giustizia nella Catalogna”, pp. 389–390.
- 32 Flocel Sabaté, *Història de Lleida. Alta edat mitjana*, Pagès editors, Lleida, 2003, pp. 199–214.
- 33 Xavier Ballestin, “Prosopografia dels Fuqaha’ i Ulama’ de la zona oriental del Tagr Al-A’la: Balaga, Larida, Turtusa (II)”, *Estudios Onomástico-Biográficos de Al-Andalus*, Manuela Marín y Helena de Felipe, eds., CSIC, Madrid, 1995, vol. 7, pp. 489–532.
- 34 Ana Lorient, *L’horitzó andalusí de l’antic Portal de Magdalena*, Ajuntament de Lleida, Lleida, 1992, pp. 110–112.
- 35 Joan Eusebi Garcia Biosca, José Ignacio Rodríguez Duque, “Aproximación al poblamiento árabe del Bajo Segre: hábitat y fortificaciones”, *III Congreso de Arqueología Medieval Española (Oviedo, 27 marzo—1 Abril 1989). Actas. II Comunicaciones*, Asociación Española de Arqueología Medieval—Servicio de Publicacions de la Universidad de Oviedo, Oviedo, 1992, pp. 360–368.
- 36 Flocel Sabaté, “L’espace des minorités ethniques et religieuses: les juifs dans les villes catalanes au Bas Moyen Âge”, *Morphologie et identité sociale dans la ville médiévale hispanique*, Flocel Sabaté, Christian Guilleré, eds., Université de Savoie, Chambéry, 2012, pp. 231–286.
- 37 Thomas Labbé, *Les catastrophes naturelles au Moyen Âge*, CNRS Éditions, Paris, 2017, pp. 169–180.
- 38 Flocel Sabaté, “Jewish Neighbourhoods in Christian Towns (Catalonia, Late Middle Ages)”, *Intricate Interfaith Networks in the Middle Ages. Quotidian Jewish-Christian Contacts*, Ephraim Shoham-Steiner, ed., Brepols, Turnhout, 2016, pp. 153–181.
- 39 Flocel Sabaté, “L’ordenament municipal de la relació amb els jueus a la Catalunya baixmedieval”, *Cristianos y judíos en contacto en la edad media. Polémica, conversión, dinero y convivencia*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Barcelona, 2009, pp. 733–804.
- 40 Flocel Sabaté, “La sexualidad en la sociedad alicantina bajomedieval”, *Canelobre*, 52 (2007), pp. 130–133.
- 41 “si jueu o sarrayn seran trobatz jaentz ab xrestiana, lo jueu o el sarrayn deven ésser tiragasats e rossegats e la xrestiana deu ésser cremada en guisa e en manera que muiren”. *Costums de Tortosa*, 9.2.7; Massip, ed., *Costums de*

Tortosa, p. 415.

- 42 “exceptat que si la femna era forçada o él anava vestit axí com a xrestian on ela fos enganada, que ladoncs ela no deu soffir pena e él deu ésser tiragassat”. *Costums de Tortosa*, 9.2.7; Massip, ed., *Costums de Tortosa*, p. 415.
- 43 “com crexen la malícia dels malvats, molts et diversos furts se comencen affer per malvades jents, axí de nit com de dia, en la damunt dita Ciutat, perquè sia de neccesitat que sobre aytals et tants malefícis sia provehit en manera que•ls dits malfaytors sien per penas a açò bastants castigats et els altres ne prenguen eximpli”. Francesc Carreras i Candi, “Ordinacions o establiments a Tortosa (anys 1340–1344)”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 11 (1923–1924), p. 406.
- 44 Flocel Sabaté, “Ejes vertebradores de la oligarquía urbana en Cataluña”, *Revista d’història Medieval*, 9 (1998), pp. 140–143.
- 45 “per furt o ladronici que aja feyt de qualque quantitate sia de C sols. a awayll”. Carreras Candi, “Ordinacions o establiments a Tortosa”, (anys 1340–1344), p. 406.
- 46 “si altra vegada hi serà vist ho trobat en qualsevol dels casos sobredits, sàpia que serà penjat sens tot remey en guisa que muyra”. Carreras Candi, “Ordinacions o establiments a Tortosa, (anys 1340–1344)”, p. 406.
- 47 José I. Padilla, ed., *L’esperit d’Àneu. Llibre dels costums i ordinacions de les Valls d’Àneu*, Consell Cultural de les Valls d’Àneu, Esterri d’Àneu, 1999, p. 149.
- 48 Flocel Sabaté, “Oligarchies and Social Fractures in the Cities of Late-medieval Catalonia”, *Oligarchy and Patronage in Late Medieval Spanish Urban Society*, María Asenjo-González, Brepols, Turnhout, 2009, pp. 9–16.
- 49 Albert Curto, *La intervenció municipal en l’abastament de blat d’una ciutat catalana: Tortosa, segle XIV*, Fundació Salvador Vives Casajuana, Barcelona, 1988, pp. 211–212.
- 50 Flocel Sabaté, “Els bàndols com a solidaritat en la societat urbana baixmedieval”, *Afers. Fulls de recerca i pensament*, 30 (1998), pp. 457–472.
- 51 Flocel Sabaté, “L’augment de l’exigència fiscal en els municipis catalans al segle XIV: elements de pressió i de resposta”, *Col·loqui Corona, Municipis i Fiscalitat a la Baixa Edat Mitjana*, Manuel Sánchez, Antoni Furió, eds., Institut d’Estudis Ilerdencs, Lleida, undated (1997), pp. 448–458.
- 52 Flocel Sabaté, “Les factions dans la vie urbaine de la Catalogne du XIV^e siècle”, *Histoire et Archéologie des terres catalanes au Moyen Âge*, Philippe Sénac, ed., Presses Universitaires de Perpignan, Perpignan, 1995, pp. 339–365.
- 53 “si aquell qui ab la ballesta o ab arch ab fleques trahen segons que dit és, a algú ferran e del colp aquell o fferida o nafra que feyta li aurà, morrà, que en aquest cas sia seguida la costum, dient ‘qui mata, que muyra’”. Carreras Candi, “Ordinacions o establiments a Tortosa (anys 1340–1344)”, p. 417.
- 54 “e qui ab ballesta ab arch ab fleques, treya entuxegada o enverinada traurà contra altre, mori o no mori, pus que•l n’aja ferit, que sia roçejat en guisa que muyra”. Carreras Candi, “Ordinacions o establiments a Tortosa (anys 1340–1344)”, p. 417.
- 55 “que null hom de qualque condició sie no gos tirar palesament ne amagada ab ballesta contra alguna persona, e qui contra farà sie penjat o perda lo cap sens tota mercè”. AHCB ABVB X-2, f. 74r.
- 56 Flocel Sabaté, “Orden y desorden. La violencia en la cotidianidad bajomedieval catalana”, *Aragón en la Edad Media*, 14–15 (1999), pp. 1401–1402.
- 57 AHCB ABVB, X-2, f. 24v.
- 58 “Que null hom de qualque estament o condició sia, privat o estrany, no gos

de die ne de nit per força entrar en alcun alberch d'altre ne combatre ne esuahir alberch d'alcú dins la ciutat, sia ciutadà o altra. E qui contrafarà si és hom de peratge o ciutadà honrat perdrà lo cap, e si és hom de peu sera penjat per lo coll sens tota mercè". AHCB ABVB, X-2, f. 79r.

- 59 Maria-Teresa Ferrer, "Lluites de bàndols en Barcelona en temps del rei Martí l'Humà", *Estudis d'història medieval*, 1 (1969), pp. 77-94.
- 60 "Ordonaren els consellers e promens de la Ciutat de Barchelona que alguna persona de qualsevol condició e estament sia no gos moure en la dita Ciutat bregues ne baralles sots pene de mort, ço és, que si és hom de peratge o ciutadà honrat que sia escapat e si és altre que sia penjat". AHCB, B-IV, llibre d'ordinacions, 2, f. 16r.
- 61 Francke Collard, *Le crime de poison au Moyen Âge*, Presses Universitaires de France, Paris, 2003, pp. 97-180.
- 62 Jaume Codina, Sabí Peris, "Ordinacions de Girona en l'any 1358", *Annals de l'Institut d'Estudis Gironins*, 28 (1985-1986), p. 205.
- 63 "Que negun specier ne sa muller ne negun missatge seu ne negun mercader o altre persone de qualque estament o condició sie no gos de die ne de nit palesament o amagada vendre o donar ne liurar de neguna persona realgar ne altres coses verinoses o qui haien en si verí si donchs no.u feyen de metges o de altres personas qui.n haguessen mester per metra ho en medacina". AHCB ABVB X-2, f. 31v.
- 64 "que la persona qui ho vendrà e u liurarà sie e haie a ésser present com ho metrà en la dita medecina, e qui contrefarà serà penjat sens tota mercè". AHCB ABVB X-2, f. 77v.
- 65 Francesco Cesare Casula, *La Sardenya catalano-aragonesa. Perfil històric*, Rafael Dalmau editor, Barcelona, 1985, pp. 37-47.
- 66 AHCB, B-I, llibre del consell 12, f. 63r.
- 67 Maria Teresa Ferrer, "Reintegracionisme i dificultats polítiques: el regant de Pere el Cerimoniós", *Història de Catalunya*, Joan Salvat, Josep Maria Salrach, eds., Salvat editores, Barcelona, 1978, vol. 3, p. 81.
- 68 ACSV, claveria 1355, fols 26v, 35v, 39v, 52v-59v, 62v.
- 69 "Que naguna persona de la ciutat ne fora de la ciutat no gos fer fugisser negun janovés ne dar-li endressa o aviament perquè fuge, sots ban o pena de penjar sens tota mercè". AHCB ABVB, X-1, f. 12r.
- 70 ACBE, Paeria i Vegueria II, procés 26.
- 71 "que tota persona de la ciutat e del territori d'aquella qui tenga en comanda o a qui sien estats comanats alcun jenovès o alscons janovesos, que per dilluns tot die primer vinent los haien tornats e meses dins lo castell nou de la ciutat". AHCB B-I, fons municipal, consell de Cent 1, llibre del consell 19, f. 52r-v.
- 72 "sia provehit que tot hom strany que sia mundari e sospitós haja axir fora la çitutat, e que si hic són trobat fins que la ost sia tornada, sia penjat pel coll, però la pena sia aytal com la Cort volrà ordonar". AHT, llibre del consell, 1369, f. 2v; ed. Sabí Peris, Josefina Cubells, *Actes Municipals 1369-1374-75*. Publicacions de l'Excm. Ajuntament de Tarragona, Tarragona, 1984, p. 19.
- 73 "que d'ecí per demà tot die, tot gaschó e castellà que no haja muller o no tenga casa pròpria o llogada en Barcelona hic haja exir, sots pena de mort". Josep Maria Sans i Travé, ed., *Dietaris de la Generalitat de Catalunya*, Generalitat de Catalunya, Barcelona 1994, vol. 1, p. 161.
- 74 Philippe Wolff, "Un grand commerce medieval: Les céréales dans le bassin de la Méditerranée Occidentale. Remarques et suggestions", *VI Congreso de Historia de la Corona de Aragón (Cerdeña, diciembre 1957)*, Ministerio de Asuntos Exteriores, Madrid, 1959, p. 161.

- 75 Antoni Riera, "Els pròdroms de les crisis agràries de la baixa Edat Mitjana a la Corona d'Aragó. 1: 1250-1300", *Miscel·lània en Homenatge al P. Agustí Altisent*, Diputació de Tarragona, Tarragona, 1991, pp. 57-72.
- 76 Francesco Giunta, *La Sicília catalana*, Rafael Dalmau editor, Barcelona, 1988, pp. 9-15.
- 77 Antoni Riera, "Crisis frumentarias y políticas municipales de abastecimiento en la ciudades catalanas durante la baja edad media", *Crisis de subsistència y crisis agrarias en la Edad Media*, Hipólito Rafael Oliva, Pere Benito, eds., Universidad de Sevilla, Seville, 2007, pp. 147-150.
- 78 Elisenda Gràcia, *Estructura agrària de la Plana de Vic al segle XIV*, Fundació Salvador Vives Casajuana, Barcelona, 1989, p. 123.
- 79 Antoni Riera, "Crisis cerealística, políticas públicas de aprovisionamiento, fiscalidad y seguridad alimentaria en las ciudades catalanes durante la baja edad media", *Políticas contra el hambre y la carestia en la Europa medieval*, Luciano Palermo, Andrea Fara, Pere Benito, eds., Milenio, Lleida, 2018, pp. 254-273.
- 80 Among other local cases: Juan Manuel del Estal, "Extrema escasez de pan en Alicante el año 1333", *Anales de la Universidad de Alicante. Historia medieval*, 2 (1983), pp. 49-62; Albert Turull, "El mal any primer a Cervera. Traspàs socio-polític i crisi de subsistència (1333)", *Miscel·lània Cerverina*, 4 (1986), pp. 23-54; Montserrat Canela, "Cervera: 1333-1384. Pestes, fams i guerres", *Miscel·lània Cerverina*, 4 (1986), pp. 55-66.
- 81 "lo mal any primer". Pierre Vilar, *Catalunya dins l'Espanya moderna*, Curial—Edicions 62, Barcelona, 1986, pp. 197-199.
- 82 Albert Curto, *La intervenció municipal en l'abastament de blat d'una ciutat catalana: Tortosa, segle XIV*, Fundació Salvador Vives Casajuana, Barcelona, 1988, p. 211.
- 83 Carme Batlle, *La crisis social y económica de Barcelona a mediados del siglo XIV*, CSIC, Barcelona, 1978, vol. 1, p. 50.
- 84 Flocel Sabaté, "Història medieval", *Història de Catalunya*, Albert Balcells, ed., L'Esfera dels Llibres, Barcelona, 2004, pp. 247-248.
- 85 Antoni Riera, *Els cereals i el pa en els països de llengua catalana a la baixa edat mitjana*, Institut d'Estudis Catalans, Barcelona, 2017, p. 283.
- 86 "Que naguna persona de qualque stament o condició sie no gos emblar forment, ordi o altres blats ne mercaderies ne altres cosas de dia o de nit en la plaça del blat ne en lo Porxo de la mar ne en la ribera. E qui contra farà de nits serà penjat sens tota mercè en manera que-n muyre. E qui contra farà de dies pagarà per ban cascuna vegada D sous e no res menys serà escobat per la ciutat per los lochs acustumats ab grans assots.". AHCB ABVB X-2, f. 71v.
- 87 "que al mig de la plaça de les Cols sien posades e fetes unes forques per terror del poble, que no's comoga contra los regidors de la ciutat per la carestia e fretura que és en la ciutat de present". ACBEB, Fons municipal de Tortosa, Provisions, 11, f. 1r.
- 88 Pere Verdés, "*Per ço que la vila no vage a perdió*". *La gestió del deute públic en un municipi català (Cervera, 1387-1516)*, CSIC, Barcelona, 2004, p. 126.
- 89 Nicole Gonthier, *Cris de haine et rites d'unité. La violence dans les villes, XIIIème-XVIème siècle*, Brepols, Turnhout, 1992, pp. 208-209.
- 90 Bronislaw Geremek, *La estirpe de Caín*, Mondadori, Madrid, 1991, pp. 67-104.
- 91 "Que tot hom pusque donar e trametre a persones pobres per amor de Déu tot ço que.s vulla"; AHCB, B-I, llibre del consell 12, f. 3r.
- 92 Claude Carrère, *Barcelona 1380-1462. Un centre econòmic en època de crisi*, Curial, Barcelona, 1978, vol 2, p. 141.

- 93 "Ara hoiats per manament del veguer, que com moltes gents pobres dels prats d'Urgell e d'altres lochs de Cathalunya e encara d'altres parts stranyes sien vengudes en la ciutat de Barchelona e jatsia sien a drets de lurs membres molts d'ells vagen mendicant per la dita Ciutat e molts d'aquells hi estan vagabunts no volents fer alguna faena, per ço ordonaren los dits conselles e promens de la dita ciutat que totes les dites persones, axí homens com fembres, vulles que acapten e sien vagabunts dins IIII dies primers vinents se sien meses al senyor o ab dona posats e guanyar la vianda a on sien mesos en algun offici e fassen faena de ses mans en manera que no acapten ne estien vagabunts, o dins los dits IIII dies sien fora la dita ciutat e del territori o termens d'aquella. en altra manera, passats los dits IIII dies seran gitats de la dita Ciutat, estobant, e si altre vegada hi seran trobats seran penjats per lo coll sens tota mercè". AHCB, B-I, llibre del consell 24, f. 133r.
- 94 Bronislaw Geremek, *La piedad y la horca*, Alianza Editorial, Madrid, 1989, p. 56.
- 95 Flocel Sabaté, "Església, religió i poder a l'edat mitjana", *Església, societat i poder a les terres de parla catalana. Actes del IV Congrés de la Coordinadora de Centres d'Estudis de Parla Catalana*, Lourdes Plans, ed., (Vic, 20 i 21 de febrer de 2004), Cossetània Edicions, Valls, 2005, pp. 48–50.
- 96 Flocel Sabaté, "Història Medieval", pp. 257–268.
- 97 "per quell pecat nostre senyor Déu cesa enviar pluja del cel, la qual és molt necessària". Pedro Ibarra, "Elig", *III Congreso de Historia de la Corona de Aragón (julio de 1923)*, Diputación Provincial—Ayuntamiento de Valencia, Valencia, 1923, vol. 2, p. 38.
- 98 Prim Bertran, "El espacio religioso en la ciudad catalana bajomedieval", *Morphologie et identité sociale dans la ville médiévale hispanique*, Flocel Sabaté, Christian Guilleré, eds., Université de Savoie, Chambéry, 2012, pp. 332–334.
- 99 Josefina Mutgé, "L'abastament de blat a la ciutat de Barcelona en temps d'Alfons el Benigne (1327–1336)", *Anuario de Estudios Medievales*, 31/2 (2001), p. 654.
- 100 "són alguns que han a retre compte de si matex e de altres, axí com regidors de viles, e açò contra sis coses o peccats que y han a provehir e si no, vindrà la ira de Déu sobre ells e encar sobre la vila que u sosté". Vicent Ferrer, *Sermons*, Gret Schib, ed., Editorial Barcino, Barcelona, 1975, vol. 3, p. 13.
- 101 "que la cogitació de l'hom, per ley natural e humanal instituida a esquivar pecats e coses il·licites, corrumputa per llibertat e ús de pecar, s'ardeix pus sovén que no solia a perpetrar grans pecats en diverses maneres, e per açò, volents en quant nostra fingilitat s'escau, prohibir e vedar la temerària audàcia e presumpció des delinqüents ab remeys temporals, pus temor e amor de Déu no·ls retrau de mal". Francesc Cortiella, *Una ciutat catalana a darreries de la baixa edat mitjana: Tarragona*, Institut d'Estudis Tarraconenses, Tarragona, 1984, p. 399.
- 102 "sia açotada per la ciutat tota nua portant al cap una garlanda d'ayaçes". Cortiella, *Una ciutat catalana*, p. 399.
- 103 "Primerament ordonam que tot hom qui de nit o de dia entrarà en casa d'alguí o d'alguna per jaure carnalment ab muller, filla, serventa o cativa d'aquell o d'aquella, que muyra sens sperança de vènia. E la fembra ab qui jaurà carnalment si donchs forçada no és, perda si és maridada la meytat de son exovar e altres drets dotals, al marit ipso facto guanyats e aplicats, e no res menys si en altra manera punida segons dret vol; e si és filla perda la legítima guanyada al pare, però que l'honrada cort dels veguers haia lo terç de la meytat del dot e de la legítima que la dita dona maridada o filla perderan. E semblant pena encorrega dona vídua que estiga en casa d'alguí si

lo dit crim comet dins casa d'aquell on estava o hi consentia. E si és sirventa estiga tota nua públicament a la vergonya, ço és, al peu del costell, ligada tro a Nostre Senyor levat, e perda sa soldada guanyada a la dita honrada cort lo terç e lo terç a l'acusador e l'altra terç a la ciutat. E si és cativa sia açotada tota nua per la ciutat.(...) Item que tot missatger qui jaurà carnalment ab filla d'aquell ab qui està, muyra e si és serventa sia açotat per la ciutat, e si se'n menava filla o esclava d'aquell ab qui estava sia penjat per lo col e guisa que muyra". Cortiella, *Una ciutat catalana*, pp. 399–400.

- 104 Flocel Sabaté, "Les juifs au moyen-âge. Les sources catalanes concernant l'ordre et le désordre", *Chrétiens et Juifs au Moyen Âge. Sources pour la recherche d'une relation permanente*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2008, pp. 124–136.
- 105 Jaume Riera, "Contribució a l'estudi del conflicte religiós dels conversos jueus (Segle XV)", *IX Congresso di Storia della Corona d'Aragona (Napoli, 11–15 de aprile de 1973). La Corona d'Aragona e il Mediterraneo: aspetti e problemi comuni*, di Alfonso il Magnanimo a Ferdinando il Cattolico (1416–1516), Società Napolitana di Storia Patria, 1982, Naples, vol. 2, pp. 409–425.
- 106 "el converso judaizaba porque había perdido sus señas de identidad, porque necesitaba cubrir un espacio que la nueva fe no había conseguido llenar". Asunción Blasco, "Judíos y conversos en el reino de Aragón", *Chrétiens et Juifs au Moyen Âge. Sources pour la recherche d'une relation permanente*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2006, p. 222.
- 107 Sabaté, "L'ordenament municipal de la relació amb els jueus", pp. 753–754.
- 108 Carrère, *Barcelona 1380–1462*, p. 159.
- 109 Sabaté, "Jewish Neighbourhoods in Christian Towns", pp. 162–171.
- 110 Flocel Sabaté, "Municipio y monarquía en la Cataluña bajomedieval", *Anales de la Universidad de Alicante. Historia medieval*, 13 (2000–2002), pp. 276–279.
- 111 Flocel Sabaté, *Vivir y sentir en la Edad Media. El mundo visto con ojos medievales*, Anaya, Madrid, 2011, pp. 51–53.
- 112 Flocel Sabaté, "Els eixos articuladors del territori medieval català", *V Congrés Internacional d'Història Local de Catalunya. L'estructura territorial de Catalunya. Els eixos cohesionadors de l'espai*, Flocel Sabaté, ed., L'Avenç, Barcelona, 2001, pp. 61–68.
- 113 Flocel Sabaté, "États et alliances dans the Catalogne du bas Moyen-Age", *Du contrat d'alliance au contrat politique. Cultures et sociétés politiques dans la péninsule Ibérique à la fin du Moyen Âge*, François Foronda, Ana Isabel Carraspc, eds., Université Toulouse II-Le Mirail, Toulouse, 2007, pp. 308–325.
- 114 AHCG I.1.1.7, f. 63r.
- 115 ACGX, pergamins a-b; AMC, Llibre dels usos i costums d'Olot, f. 154r.
- 116 Flocel Sabaté, "Barcelona: The Building of a Territorial and Ideological Capital", *Viator*, 48/1 (2017), pp. 105–106.
- 117 ACBG, fons del veguer, llibre 1398, unnumbered.
- 118 Pere Català, Miquel Brasó, "Castell-Palau de Terrassa", *Els Castells Catalans*, Pere Català, ed., Rafael Dalmau editor, Barcelona, 1991, vol. 2, p. 148.
- 119 ACVOC, pergamins carpeta IIB, núm. 10.
- 120 Enrique Bayerri, "*Llibre de Privilegis*" de la villa de Ulldecona, Imprenta Blanch, Tortosa, 1951, pp. 119–121, 136–137.
- 121 Flocel Sabaté, "El veguer i la vegueria de Tortosa i Ribera d'Ebre al segle XIV", *Recerca*, 2 (1997), pp. 120–121.
- 122 ACA C 551, f. 16v-25r.
- 123 "I bèstia on cavalcha el vaguer"; "XXIII homes que segueixen lo veguer quan anà a Uylldecona per penjar I hom en lo dit loch"; "que feu les forques a Uylldechona". ACBEB, clavaría 2, f. 31r-32r.

- 124 Flocel Sabaté, "Territori de Barcelona", *Enciclopèdia de Barcelona*, Ramon Alberch, Jesús Giralt, eds., Enciclopèdia Catalana, Barcelona, 2006, vol. 4, p. 167.
- 125 Pere Català, Miquel Brasó, "Castell de Sant Boi", *Els castells catalans*, Pere Català, ed., Rafael Dalmau, editor, Barcelona, 1990, vol. 1, pp. 462–463.
- 126 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons Bou, eds., Impremta d'Henrich i Companyia, Barcelona, 1915, vol. 4, pp. 72–73.
- 127 Sabaté, "Barcelona: The Building of a Territorial and Ideological Capital", pp. 99–103.
- 128 Flocel Sabaté, *El territori a la Catalunya medieval*, Fundació Salvador Vives Casajuana, Barcelona, 1997, pp. 167–172.
- 129 Flocel Sabaté, "Barcelona, a Medieval Capital", *European Review*, 25/1 (2017), pp. 54–58.
- 130 Flocel Sabaté, "Sant Maties, complot de", *Enciclopèdia de Barcelona*, Ramon Alberch, Jesús Giralt, eds., Barcelona, 2006, vol. 4, p. 112.
- 131 "Dimecres, a XVIII^o de maig MCCCCLXII, a X hores ans de dinar foren scanyats dins la presó del veguer de Barchinona en Ffrancí Pallarès, conseller segon, e en Pere Torrent, pus jove, ciutadans de Barchinona, delats de haver feta una gran conjuració o gabella en la dita ciutat, en la qual, segons apar en lo procés qui d'açò fonch fet, havien deliberades fer de grandíssimes malvestats e dar grans dans e destruccions a la cosa pública, e als ciutadans de aquella". Jaume Safont, *Dietari o Llibre de les Jornades (1411–1484)*, Josep Maria Sans i Travé, ed., Fundació Noguera, Barcelona, 1992, p. 154.
- 132 Carme Batlle, *La crisis social y económica de Barcelona*, pp. 366–369.
- 133 See the chapter in this book "The death penalty in a tense Catalonia at the end of Middle Ages".
- 134 Flocel Sabaté, "Ejes vertebradores de la oligarquía urbana en Cataluña" *Revista d'Història Medieval*, 9 (1998), pp. 151–153.

8 The death penalty and ordinary justice

Besides the various jurisdictional origins, a death sentence had to be given within the current legal practices. Formally, it could never be applied arbitrarily, and had to comply with the source of penal law, either “of civil law or by custom” as Peter the Ceremonious expressed it in 1359.¹ The sentences had to be in line with the legal norms of the country, that is, with the “Usatges de Barchinona, Constitucions, privilegis, custums, stils o pràtiques de Cathalunya”,² including the considerations of equity and good reason, as the Parliament or Courts stated in 1431–1434: “according to the Usages of Barcelona, Constitutions and Chapters of the Court of Catalonia, Uses, Customs, Privileges, Immunities and Liberties of each one’s condition and of the councils and singular to those, Right, Justice, Equality and Good Reason”.³

In the application of the law, the accused could not be sentenced to death without full guarantees of legal defence, which, according to King Alfonso the Kind, the royal officials in the general courts held in Montblanc in 1333 were explicitly obliged to observe:

Ordinamus quod nullus condepnetur ad mortem vel mutilationem membrorum vel etiam tormentis subiciatur per nos, vel illustrem reginam consortem nostram aut inclitum infantem Petrum primogenitum et generalem procuratorem nostrum vel eius locum tenentes aut per alios officiales vel iudices nostros vel eorum, ei deffensione debita non concessa; et quod contra formam prescriptam a nostra curia vel ipsorum nulla littera valeat emanare.⁴

These guarantees, in reality, were applied through an inquisitorial and judicial process in line with the Romanist model, well established and spread in the first half of the thirteenth century. Beyond the jurisdictional fragmentation, the basic forms and uses in the ordinary courts and trial system coincided all over the country, showing that they shared a common legal culture and were fed by notaries in the clerk’s office and jurists in the judicial posts, all trained under the same pattern in similar *Studium Generale*, as the Parliament or Courts explicitly stipulated in 1358:

That a jurist in the cities, towns and even other notable places may

not work as an advocate or judge or legal adviser in the case he has not the all five ordinary books of Civil Law, or at least the ordinary books of Canon Law. And those at least have heard for years in a *Studium Generale*.⁵

The district and local courts of justice were organised similarly. The ordinary official with the delegated jurisdictional power was usually assisted by another official who could stand in for him with full powers wherever required. This was the case of the subvicar (*sotsveguer*) who might help or be a substitute for the vicar (*veguer*). The ordinary official would be helped by the judge or, depending on the place, a legal assessor, a procurator fiscal, an *advocat dels pobres* (advocate for the poor) as a kind of duty lawyer and a scribe who took notes, with his assistants. Finally, the sergeants are added for the executive tasks. This court took on all kinds of tasks, such as registering loans, giving safe-conducts, authenticating documents, pawning, controlling public order, applying the municipal ordinances where the local bailiff had no partial or total powers and, as a clear indication of the possession of jurisdiction, investigating, pursuing and punishing offences and crimes committed.⁶

This action against crime began with the accusation of the offence —“as it was denounced”⁷—either the committing of a crime or the confirmation of an irregularity, such as finding a body, perhaps by accident.⁸ After receiving the accusation, the official in charge of applying justice worked accordingly, as the royal vicar of Tortosa warned: “I punish and castigate the delinquents and malefactors in the jurisdiction of my command”.⁹ If required, the official would go to the site of the crime with his assistants, to “know the truth about the fact”.¹⁰ If it was necessary, they would also interrogate people, sometimes from *capítols* (chapters) previously drawn up, about what had been seen or heard or, and if it were the case, the existence of some suspect and their moral characteristics. More frequently, this was not so much to investigate an apparent crime committed by an unknown person but rather to receive accusations against certain people, which immediately gave rise under both royal and baronial jurisdiction,¹¹ to the accused being cited. They had to declare and be interrogated about whether they accepted the accusations. On most occasions, especially if they feared being charged, they opted not to appear, although formally, and coinciding with what was then usual in other territories,¹² the citation was repeated up to four times —“fourth and peremptory citation”,¹³ very often formally accumulating these regular four calls in only one.¹⁴ By failing to appear, they were declared *bandejats* (outlaws). Formally “legitime citatus et etiam bannitus”,¹⁵ by failing to appear in the jurisdiction where they had offended, they were subject to arrest by whoever

found them, as publicly proclaimed.¹⁶

This measure, in practice, was completely watered down by the reality of impenetrable jurisdictional fragmentation that encouraged the accused to seek refuge in the neighbouring jurisdictions.¹⁷ To avoid setting precedents of jurisdictional submission, the local lord generally did not hand over anyone wanted in another jurisdiction. In response to this, interpreted as a denial of justice—“*fadiga de dret*”—, all that was needed was to call all men in arms—the militia, the called “*sometent*” —to go, led by the ordinary official, to reclaim the accused. This was an extreme action, one that did not change the reality of perennial mutual impunity, but it was repeatedly undertaken, often reflecting the regional political balance and also depending on the seriousness of the crime and the social alarm it had caused.¹⁸ The combination of armed mobilisation and political pressure could obtain the arrest of the delinquent. This was the case in Barcelona in 1391 when a fugitive from justice who had taken refuge in Martorell was seized by the lord of that place and shortly after executed:

the flag went back to the city with the vicar and the honourable Galceran de Rosanes, special bailiff of said lord, bringing the mentioned man who was delivered by the people of Martorell, and after he was jailed in the New Castle (*Castell Nou*).¹⁹

A simple negotiation was sometimes enough, like that by the same city with the viscount of Cabrera in 1398:

The honourable Simon de Marimon and Francesc Terre came on behalf of the city to Blanes and Hostalric to have and to carry that evil man who had killed the wife of micer Guillem de Liçano.²⁰

The elites in each urban centre invested in its rural hinterland, which meant a growth in the acquisition of all kinds of properties and rights, including jurisdictional ones. That is why the bourgeois families became the holders of the *merum* and *mixtum imperium*, like any noble, baron or churchman.²¹ Consequently, the conflicts around jurisdictional infrangibility were identical. An example was the one in Barcelona regarding the places in the region where full jurisdiction had fallen into the hands of members of the same elite who ran the city.²² However, in that case, permanent agreements for collaboration and the actual extradition of the suspects could be reached. Thus, in the mid-fourteenth century, members of the Barcelonan Desbosc family, royal civil servants, acquired Sant Vicenç and Vilassar, on the coast north-east of Barcelona,²³ strengthening progressively their domain until they gained full jurisdiction.²⁴ Some serious clashes between the city and the Desbosc family occurred, including in 1383 the mobilisation of the city’s *sometent* or urban militia,²⁵ but at the same time, some agreements for collaboration were reached and these

allowed exchanges of accused people. Thus, in 1401, after committing robberies in the jurisdiction of Sant Vicenç and Vilassar, a foreigner from Majorca sought refuge in Barcelona. However, through an agreement between both jurisdictions, he was arrested and a sergeant of the royal vicar delivered him to the jurisdiction where he had perpetrated the crime.²⁶ In more complicated cases, a similar agreement was reached through an arbitration award.²⁷ This was the solution in 1402, when a man was arrested in Barcelona who had offended in both jurisdictions. Thanks to an arbitration award, he was handed over to the jurisdiction of Sant Vicenç and Vilassar and, after receiving the relevant sentence, he was returned to the jurisdiction of the vicar of Barcelona to stand trial for the other accusation.²⁸

Extradition agreements were also established in other places, especially in powerful municipalities. The city of Tortosa made agreements for collaboration and extradition with some of its neighbours. In 1379, one was reached with the master of the military Order of Montesa, thus avoiding the flight of the accused to the south. In 1402, one was signed with the royal town of Montblanc and, later in the fifteenth century, with the count of Cardona, lord of the neighbouring county of the Mountains of Prades. The agreements referred to the exercise of royal jurisdiction, but were reached by the municipal government, either with other royal places, like Montblanc, or with great jurisdictional lords.²⁹

Thus, these agreements affected royal jurisdiction, but were based on the rise of the municipality that monopolised the exercise of the sovereign's jurisdiction, as is evident in these cases of Barcelona or Tortosa. Understandably, these were not the dominant majority, given that the real situation in Catalonia was not the juxtaposition of great lordships but rather a fragmented jurisdictional mosaic. Impunity in other jurisdictions was the most common consequence of the country's jurisdictional fragmentation. So the outlaws (*bandejats*), were part of everyday life, harboured in one or another jurisdictional side.³⁰ Thus, when trying to augment the population in the places under his domain, the king did not hesitate to grant protection to those who were persecuted in baronial jurisdictions. In 1382, Peter the Ceremonious was trying to increase the population of two notable royal towns, Vilafranca del Penedès and Cervera, and so promised to grant full protection to those on the run from baronial jurisdictions:

Vobis liceat libere et impune recipere, receptare, sustinere, manutenere ac defendere intus dictam villam et eius terminos ac vicariam scilicet intra iurisdictionem nostram tanquam a nobis et in nostra bona fide regia, quo ad haec et in hoc casu serie cum praesenti guidatas et assecuratas omnes et singulas quascunque personas cuiuscunque legis, sexus, gradus vel conditionis exsistant bannitas a

quacunq̃ue alia iurisdictione extranea, seu nunc vel in futurum delatas vel incuipatas aut aliter quomodocunq̃ue convinctas de quibuscunq̃ue criminibus, excessibus vel delictis extra nostram iurisdictionem in aliena iurisdictione ubicunq̃ue, qualitercunq̃ue et quadocunq̃ue comissis vel etiam perpetratis.³¹

This approach led to the sovereign seeing the other side of the same coin. Those pursued by royal officials only had to take refuge in other jurisdictions. So, the king explicitly promised to give refuge to delinquents who had offended in the lands under other jurisdictions which harboured fugitives from the royal jurisdiction:

Providemus quod contra aliquos cuiusvis status, legis aut condicionis fuerint qui venerint ad habitandum aut se in villa prefata populandum ratione aut occasione aliquorum criminum excessum aut delictorum per eos aut eorum aliquem antea comissorum in terris baronum aut prelatorum aut aliorum qui consueverint sustinere ac receptare bannitos nostros aut nostri carissimi primogeniti, per nos aut dictum nostrum primogenitum aut aliquos officiales nostros vel suos in aliquo minimo procedatur.³²

It is thus clear that the scenario was one of jurisdictional infrangibility. Given this, negotiations were needed, sometimes under the pressure of urban militia, or less frequently, pre-established agreements. So one way or another, the power to exert pressure by the jurisdiction that asked for the fugitives from justice or by the other one that offered refuge was what counted. The two measured their respective forces and calculated the degree of confrontation that was considered appropriate for the target aimed for. Consequently, a frequent scenario was a lack of collaboration, which enabled each of the jurisdictions affected to be strengthened. This led to extreme situations in financial matters, because it was very difficult to recover debts or breaches of contracts in other jurisdictions.³³ The situation was not very different in criminal cases. The delinquent had to know how to flee to the closest alien jurisdiction, which was better if the sheltering jurisdiction belonged to a powerful lord. The town of Igualada, a co-lordship between the king and the abbot of Sant Cugat, was surrounded by the jurisdiction of the powerful viscount of Cardona, which led to permanent impunity of crimes, as the representatives of the town stated before the parliament in the mid-fourteenth century:

Some of the viscount's men killed a women at the gates of the town without reason, and those who did it, ran to the castle of Montbui, and the viscount's men, with arms, defended the killers against the urban militia of Igualada, which is why it was not possible to arrest them.³⁴

If, despite everything and one way or another, someone accused of

a serious crime was arrested, he or she would be taken into preventative custody in the prison, because local privileges that prohibited prison for the local population usually excluded cases which could involve the death penalty or mutilation. In all cases, a crime was only punished by a judicial sentence after a trial held in line with the Romanist guarantees and forms. These trials were presided over by the jurisdictional judge or, if this post did not exist, the representative of the jurisdiction, such as the vicar or his substitute the subvicar (*sotsveguer*) in the royal districts, duly accompanied by the legal assessor to his court, a trained jurist. The format was always based on the two parties in the dispute. Thus, the two sides, the agent and the defendant, always appeared before the president of the court. The first was a private accuser or the procurator fiscal who accused the latter of an offence by presenting the corresponding texts—*instrumenta*, *cedula*—, which could start with prior *inquisitiones* if the procurator fiscal took part. The accusation was very often articulated through a specific list of *capítols* (chapters). After publishing—*publicar*—the accusations, the accused usually requested a copy—*transumptum*, *trasllat*—to prepare the defence. The trial became a long series of appearances, on the days and times assigned by the president, in which one party presented their allegations and the other requested the due copy while the scribe took notes of everything.

Witnesses, who swore to tell the truth and were interrogated with questions prepared from the chapters, could be called by either side. Only in some cases were the chapters that served as a basis for the questions extended as clarifications requested by the president of the court. These witnesses very often lacked a close or immediate relation with the facts, which did not prevent them from responding, as happened habitually, that they “have heard it said or is reputed to”, that is “quod audivit comuniter a gentibus in convicinio”,³⁵ with regard both to the facts and the accused’s customs and “fama publica”. This was a widespread concern in contemporary Europe,³⁶ which is why public fame or reputation had a strong influence on trials everywhere,³⁷ in coherence with the generalised weight that this concept had at the same time in all aspects of life in medieval society.³⁸ Fame had two sides to it. Firstly, it served to know the moral status of the accused. A bad reputation became very dangerous for this, like what happened in other regions, where “suspicion becomes an arm, a bad reputation a beginning of proof”.³⁹ In second place, what was said about the crime being investigated could be taken into account.

Accordingly, in 1424 in the Àneu Valleys it was ruled that fame could be enough to condemn someone for murder, though perhaps

including the prudent measure of having him tortured to extract a confession. However, the public fame of having committed it was sufficient especially if the person had mentioned their responsibility for having killed someone or having had someone else who depended on him do the deed in some conversation:

That it is public voice and known (*fama*) that the accused has committed the homicide there is undoubtable evidence that justifies applying torture or even the condemnation. Even more, in the case it is said that the accused has killed someone and there are no witnesses, the undoubtable evidence for torturing and also condemnation are the proven fact that he was an enemy of the one who died; it is public and known that the accused has killed or ordered killed; that the accused boasted that he or a servant of his did the crime; that he had paid someone to kill the victim; that the killer was a servant or relative of his; or that there was another offender among them.⁴⁰

The interrogation concluded, in all cases, with the question whether the witness—*deponent*—had any connection in favour of, or animosity against, the accused.⁴¹

In case of persistent difficulty in making the accused accept the charges against them, the prosecution could request that they be submitted to torture. This petition had to be decided by the judge through an interlocutory sentence, so that the same request was usually expressed as the *interlocutoria tormentorum*. Both in the royal and a great part of the baronial jurisdictions,⁴² after such a petition was submitted, the president of the trial analysed the arguments presented and pronounced his sentence on the request to torture. The procedure was thus in line with the constitution imposed in the Parliament or Courts of 1228⁴³ that prevented the royal jurisdictional officials—*nostres veguers* (our vicars)—from applying torture without the knowledge of a judge or order from the sovereign—*sense conexença de jutge o manament de príncep*⁴⁴—, which was again reinforced by the Courts in 1333.⁴⁵ The frequent request for this measure contrasted with the habitual rejection by the judge, which restricted the use of torture in ordinary trials to specific cases. Moreover, it could not be applied to people in towns and cities, such as Reus⁴⁶ or Girona,⁴⁷ whose local privileges prohibited it, and only under serious and specific circumstances could it be applied to nobles and barons,⁴⁸ as Peter the Ceremonious accepted in the Courts of 1380.⁴⁹

This trial structure, apparently, gave guarantees to the judicial system, with due leeway to each of the parties and obliging the president of the trial to analyse the arguments objectively. However, this same approach lengthened the procedure and complicated it legally, as it demanded a great deal of time from the parties and

knowledge of law. The parties in dispute needed to trust their respective procurators, well trained as jurists. In the Courts in Perpignan in 1351, Peter the Ceremonious warned that the judges could not abstain from pronouncing sentence for some formal problem in which poor plaintiffs incurred especially:

thus it often happens that for the ineptitude of the lawsuit many processes are annulled, the reason why the actors, mainly those who are poor become abandoned by the law. For this reason we order that the judge not abstain from giving sentence in the trial because of some impertinence or ineptitude of the plaintiff or the forms, given that the intention of the claimant in the claim, form or process are clear.⁵⁰

Thus, dependence on the jurists grew, and this was in parallel with the distrust they provoked. In the fourteenth century, the influential Francesc Eiximenis echoed the suspicion that lawyers were not only expensive but often also lengthened the process to extract more money from their clients, and had no qualms about destroying the other party in order to win: “because of the bad use of his profession, which is quite close to taking bad actions and pronouncing bad words against the opposed party, using all the time bad thought against this one to obtain the pledge in dispute”.⁵¹ So, there should be few but good lawyers—“there should be few but good pettifoggers”—, even for the benefit of the *res publica* which could not sustain a large number of jurists and lawyers: “to have the *res publica* in good order it is important to avoid the proliferation of many jurists and lawyers”.⁵² In fact, the suspicion that the jurists were responsible for the slowness and growing expense of justice led to them being blamed for the worsening of the image and efficacy of the legal system.⁵³ The aforementioned critiques by Eiximenis concur with the widespread complaints against bad and ignorant jurists responsible for long and expensive trials in the fifteenth century, and this was precisely what was proposed in the Courts of 1419–1420.⁵⁴ In reality, the discussions undertaken by the Courts in the 1430s to clarify the legal order of precedence in the right of the *terra* centred on the Usatges, Constitutions and Court Chapters, leaving the local customs on a second level,⁵⁵ also aimed to contribute to reducing the margin of discrepancy and discussion, and so helping to speed up the judicial machinery.⁵⁶

At the end of the trial, one of the parties, generally the prosecution, requested that sentence be dictated. If the president of the chamber accepted that all the elements had been heard, he assigned a day and time for the reading of the sentence. Solemnly in this session, “*sedens pro tribunali more solito iudicantis*”,⁵⁷ the judge or, where this post did not exist, the jurisdictional official accompanied by the juridical assessor, enumerated the different elements that had been heard and

considered, invoked God, often accompanied by a religious invocation, and proclaimed the sentence. This could be absolution because “nulla sufficiens probato”.⁵⁸ On the other hand, with a guilty verdict, a punishment would be set in line with the law but subject to the wide degree of leeway that this permitted. The scribe would generally note the sentence separately in the series of *sententiarum* books.⁵⁹ If this were capital punishment, the accused would then be sent to prison, with no possibility of bail.⁶⁰ He waited there to be executed in public in the following days, in a way that corresponded to his social status and the gravity of his crime.

This was the generic model in both the royal and baronial jurisdictions,⁶¹ although there were some nuances in the latter. Above all, in many courts there was a place for the bailiff, who replaced the procurator fiscal in the prosecution in the lord's name. This usually happened in baronial areas⁶² and some royal places, such as Terrassa, with specific traditions and institutional set-up.⁶³ In other cases, especially under ecclesiastical jurisdiction, the legal assessors were not trusted and attempts were made to limit their influence. Trials were held in which the holder of the jurisdiction did not require the presence of either a specific judge or the attendance of an assessor trained in law.⁶⁴

The trial system had to adapt significantly to municipal participation. The importance of local groups in the organisation of urban society, with effects on the emergence of the oligarchic groups, the development of socio-economic activities, access to political power and influence over the hinterland, meant power to organise that could not fail to affect the permanently weak position of the sovereign, very evidently so from the twelfth century.⁶⁵ Significantly, these powers were consolidated in the vigorous places in the newly-incorporated south-western lands,⁶⁶ especially Cervera, Tàrraga, Tortosa, Lleida, Montblanc and Tarragona, as well as other places in the same areas, such as Reus, La Selva or Valls. At same time, the local juries and eminent citizens (*prohoms*) participated in all the judicial actions in medium-sized places under baronial domain, such as Cabassers (now Cabacés) and Guissona, which were under the jurisdiction of the bishops of Tortosa and the Urgell respectively. In fact, in smaller places, the juries and eminent citizens also retained a high level of participation without the full judicial powers to apply capital punishment. This was the case in the new lands of the Ebro, especially in the Templar preceptories of Ascó and Orta, organised according to the institutional model of Lleida⁶⁷ and, in a different way, in various smaller places in the Camp de Tarragona. At the same time, the power to participate in the judicial system became an important indicator of the vitality of the city of Barcelona and its position in the power

structure.⁶⁸ Moreover, the spread of the privileges of the capital of the country to other growing cities, beginning with Girona, facilitated the participation of local leaders in criminal trials.⁶⁹ The Constitutions of Peace and Truce of 1214,⁷⁰ that, as an assembly between the king and the estates,⁷¹ had been adopted as an initial General Courts or Parliament⁷² (despite the necessary conceptual nuances),⁷³ supported the participation of municipal representatives *pro deffendenda pace*.⁷⁴

The power for the municipalities to intervene in punishing offences was specifically centred on two fields: the prosecution and the sentence. This was explicitly regulated in Cabacés:

If the lordship wishes to make general or special inquisition, he should do so with the will and consent of the eminent citizens and in the presence of the juries (councillors) of the town. If not, the lordship is not accustomed to doing inquisition without said juries with the consent of said eminent citizens so that they see the first judge and the first sentence.⁷⁵

Participation in the first aspect, the prosecution, everywhere took the form of the local magistrates accompanied by the jurisdictional official in the investigation of the offence.⁷⁶ They could also act as receptors of the accusation, as was usual in Lleida.⁷⁷ Participation in the sentence was through trial by eminent citizens—the called *juí de prohoms*—, that allowed the municipal representatives to pronounce on the guilt of the accused in a prior, mandatory and binding way with regard to the sentence.

The municipal governments continued to defend and assert their right to take part in the administration of law. The representatives of Barcelona presented complaints against the king in the Parliament or Courts of 1350 for failing to fulfil the obligation to have two local representatives participating in the investigation of offences: “the city has the privilege that in the inquisitions there must be two eminent citizens”.⁷⁸ The city had also guaranteed its participation in passing sentence by including the recognition of this right in the *Recognoverunt Proceres*, the set of privileges that Peter the Great was obliged to sanction in 1284: “quod proceres Barchinone et cives iudicant homines in criminalibus”.⁷⁹ This way, they shielded this precedent, coherent with the participation of eminent citizens beside royal officials in public activities.⁸⁰ Similarly, on taking possession of Tàrraga in 1383, Prince Martin confirmed that “only the bailiff and the councillors and council of said town have to try and judge and exercise the jurisdiction in said town according to what is accustomed”.⁸¹ Given any deviation, the local magistrates reminded the ordinary officials of their functions, as in Valls in 1340⁸² when the local bailiffs were reminded that they could not hand down sentences without linking to the decisions of the counsellors and eminent

citizens—“iuratos seu consules et probos homines permitant condemnare et absolvere criminosos per vos dictam curiam captos”—, according “de more et consuetudine antiquissimis”.⁸³ A long tradition supported this, because throughout all time, “pluries prefatos iuratos seu consules absolvere et condemnare de omnibus inculpato”.⁸⁴

Both ways of intervening (participation in the investigation and the sentence) guaranteed and proclaimed municipal power and, with that, secured it by consolidating two basic pillars, namely control of the region, because the local magistrates intervened in all the districts alongside the jurisdictional official, and in practice, appropriating the power of the sovereign in the region by weakening his jurisdictional representative. That is what Peter the Ceremonious recognised in 1371, when he had to remind his vicar in Cervera that both in the town and the district or vicarage, he could only exercise judicial power with “paciarios et probis homines, given that ipsi ab antiquo consueverint iudicare criminosos omnes delinquentes in villa et vicaria Cervarie”.⁸⁵

The trial by eminent citizens (*juí de prohoms*) contributed to securing the dominance of the urban centres over their real radius of influence. Significantly, the city of Lleida claimed this even for offences committed in the *vegueria* or vicarage of Pallars, a Pyrenean region far from the plain where Lleida lies but where the holder of the district was the same as that of the vicarage of Lleida, thus displaying the pre-eminence of the city through the royal official and exercise of justice.⁸⁶ In 1485, Valentina Guarner, a woman from Sas accused of being a witch, poisoner and killer (*bruxa, metzinera e homeyera*) and whose trial had begun in the heart of the distant mountainous Pallars region (*en Pallàs, al Pont de Çuert*) was finally condemned to death after being tried by the eminent citizens of Lleida.⁸⁷

The accusations took the moral status of the accused into consideration, so that their crimes could be taken into account regardless of where they had been committed. The court in Lleida that judged a Flemish man travelling with a mule and goods who was robbed in Alfajarín in 1399 took these facts into account without worrying about these crimes having been committed in the neighbouring kingdom of Aragon.⁸⁸ The city council thus showed the firmness of its judicial power. It was precisely in the western urban centres where the power to intervene against whoever had offended in other places, but who had been arrested in the city limits was highlighted. This did not leave room for reclamations and extraditions, as explicitly stated in Tortosa when demanding that the sentence always had to be decided by the local authorities if the accused had been detained in the city limits, no matter where the

crime had been committed: “by sentence from the citizens regarding any crime committed in Tortosa or in its district or in any place, if the culprit is arrested within the limits of the city”.⁸⁹

Accordingly, the representatives of Tortosa felt themselves to be the full holders of the royal jurisdiction over its extensive municipal area,⁹⁰ and did not hesitate to confront the king in the name of the royal jurisdiction. Tortosa’s council refused to pass on cases from the city’s royal courts to the king’s own courts even in the most emblematic causes of sovereign invocation, such as the protection of widows and poor people, as Martin the Humane had to accept in 1400.⁹¹ However, they had to justify imposing such a deeply rooted practice in this sense, because municipal participation in the process of justice under royal jurisdiction was one thing, but it was quite another to usurp the same jurisdiction by taking on the power of appeal. For that reason, in 1360, the king prevented the councillors and eminent citizens of Lleida from reviewing capital and corporal sentences.⁹²

More complicated were the cases of shared domains, notably in Tarragona, where the concord of 1312 between both holders, the king and the archbishop, significantly favoured the latter, given that the cases would end with sentences after a trial by eminent citizens—“the definitive sentences of the criminals trials who gave and preferred the naturals of the city in Trial by Eminent Citizens”⁹³—which, in cases of appeal, would finally be decided by the archbishop’s court:

The parts in disagreement with the criminal sentences of the Trial of Eminent Citizens of Tarragona could appeal to the vicars of the city, and if they also disagreed about these same sentences, they could appeal to the archbishop.⁹⁴

This importance of the *juí de prohoms*, in other words, justice based on sentences by a municipal body, led to another central question: of who had to submit to this type of justice. This ties in with the long-claimed demand for the high bourgeoisie to be treated to all effects like the lesser nobility.⁹⁵ In fact, the two shared interests and had mixed, bringing them closer through social activities,⁹⁶ family alliances⁹⁷ and such conflicts as the factions.⁹⁸ It is understandable that the bourgeois leaders pressed strongly to be given the same treatment as the lesser nobility:

In Catalonia, the military estate, and that of the bourgeois citizens, and honourable men of towns, because of the Constitutions and other reasons, share the same degree and estate in wars in equal parts in any acts and any activity and arms belonged to knighthood.⁹⁹

This was a way to highlight the social stratification within the city, because the urban elite were equated with the lesser nobility, thus emphasising the distance between them and the rest of a population

that, although part of the same estate, were seen to be on different levels between the elite at the top, down to the “gent popular”¹⁰⁰ or “lo poble menut” at the lower level.¹⁰¹ In this context, before the end of the fourteenth century, the council of Barcelona, attempting to repress the violence of the factions within the city through local ordinances, warned this would be observed with capital executions if needed, applied according to each estate. At this point, the lower level of the nobility and the high level of the citizen appeared balanced: in the case that they were condemned to death, both would be decapitated. The rest of members of the urban estate would be hung: “if he is a baron or honourable citizen that he must be decapitated and if he is other, he must be hung”.¹⁰²

There were repeated *juí de prohoms* in Barcelona that sentenced barons to death, despite their protests. Such was a case in 1445, when the *juí de prohoms* in the city of Barcelona condemned a knight to death. He was decapitated despite refusing to recognise the authority of the citizens to judge him: “a knight was condemned to lose his head by trial by eminent citizens, although he alleged that the privilege of trial by eminent citizens did not extend to gentlemen”.¹⁰³ The tense circumstances of the fifteenth century led to new death sentences for knights dictated in trials by eminent citizens in Barcelona. This occurred in 1466, but there were also other controversies, as in 1475.¹⁰⁴ At that time, the city attempted to protect its claims by invoking a former privilege from James I. In 1266, this king had not only accepted that the knight Huguet de Bigues,¹⁰⁵ was “iudicatus per vicarium et quosdam probos homines Barchinone”, but also maintained, in the face of fierce criticism “per quosdam nobiles et milites Cathalonie”, that the vicar and eminent citizens of Barcelona could condemn him to death and execute him.¹⁰⁶ However, this thirteenth-century privilege¹⁰⁷ was granted at a time of tensions between the nobility and a Crown that required municipal support.¹⁰⁸

Figure 8.1 Depiction of the execution of the convert, Pere Díes, who was hung by the neck (*penjat per la gola*) in Barcelona in 1473 in the context of the civil war, represented in the margin of the diary of the notary Jaume Safont (BC ms 978, f. 100r)

The royal jurisdictional officer, like the vicar or, in his place, the subvicar in Barcelona applied the relevant punishments conscientiously following the “juy de prohomens”,¹⁰⁹ and restricted himself to indicating that the accused “was sentenced by the eminent citizens of Barcelona”.¹¹⁰ This strength of the municipalities in justice could be used among the arguments in the struggle to avoid the jurisdictional fragmentation of the region, given the great concern of

the main cities and town councils was to maintain a jurisdictional unity over their own socio-economic region.¹¹¹ In 1360, the king ceded the domain of Vilassar and Burriac, in the vicarage of Barcelona, despite complaints from the city government, whose jurisdictional disputes over the lands of the barony of Sant Vicenç and Vilassar had been ongoing for years.¹¹² Significantly, the representatives of the city then alleged that ceding the *merum imperium* in this place went against the privileges of the city, because its “juí de prohoms” had to be applied throughout the district, the vicarage (*vegueria*): “judican in criminalibus in vicaria et baiulia Barcinone”.¹¹³ So, any cession of jurisdiction would deny the city this power.

These problems derived from the clash between the municipal claims to control the exercise of justice institutionally and jurisdictional fragmentation in Barcelona which reached a peak in the fifteenth century when a third factor came into play. This was the acts of the governor general of Catalonia, who claimed full jurisdiction as the lord of a village on the disputed north-east edge of the Territory of Barcelona, Molins de Rei.¹¹⁴ In 1486, the governor gave the command for an arrest in domains where he was the lord and finally ordered the culprit to be hanged outside these domains, on the royal public gallows. The city understood these to be its own—“gallows of the city (*forques de la ciutat*)—, so the council of Barcelona protested that the governor had violated the legal forms, which called for a trial by eminent citizens (*juí de prohoms*):

On the 13th of October 1486, the representative of the city protested to the Governor, because having captured a certain prisoner in the limits of Vallvidrera, that is part of Barcelona, he was taken to Molins de Rey, and later to Sant Feliu, and there he was sentenced to death, and he was hung at Coll de la Gavarra, a gallows of the City, that is all in the limits of the City, because he should have been taken to Barcelona and judged by a trial by eminent citizens.¹¹⁵

The execution of the sentence thus meant a conflict of power between the governor and the city. For the city, ownership of all the gallows in the so-called Territory of Barcelona was at stake.¹¹⁶ This was the exercise of royal jurisdiction. However, although defined as royal, and being applied by the royal jurisdictional officer (the vicar), the city held that it was its own and so reiterated in this same case its complaint against the governor:

On the 6th of October 1486, the governor hanged a man in Sant Feliu, by which the City felt very affected, in understanding that he could not do that for many motives that have been offered reasonably, notable among which is that it was done in the Territory of Barcelona, and the city had built the gallows.¹¹⁷

In fact, the heavy political weight of the city of Barcelona had already clashed with the governor of Catalonia in the previous decades.¹¹⁸ The exercise of justice and the death penalties dictated by the governor's courts were a source of serious disputes given that they were applied against the wishes of the city. The city council, after protesting, as we have seen, against the seizure on the governor's orders of an accused from a ship bringing supplies in April 1442, came up against a similar case in June 1443, when the governor again acted against a ship that, given its cargo, was under municipal protection. Moreover, he sought the death penalty in Barcelona without having consulted the tribunal of the city's eminent citizens:

On the 6th of June 1443, on a galley that had arrived bringing victuals, the Governor took a man and he ordered him hung. The Council, attending that this went against the Privilege of Victuals and the Trial by Eminent Citizens, submitted the question for the councillors and the twenty-four eminent citizens to deliberate.¹¹⁹

The conflict originated in the last quarter of the fourteenth century when the governor had consolidated his own court, with all its elements according to the Romanist model. This came to be used often by many people looking for the usual different functions in any coeval legal courts, such as registering all kinds of obligations and notably, frequent appeals. These activities took the same functions held by the ordinary officials, which meant frequent interference between the governor's court and the district's court under royal jurisdiction in Catalonia, especially in Barcelona, where the governor had his ordinary headquarters. This was in addition to the governor's functions both to apply extraordinary interventions calling for the preservation of public order, and to get lawsuits from the lower courts. The figure of the governor general, with the different governors in each territory, was formalised throughout the Crown in 1363. This post perpetuated the legacy of the previous high representatives of the king who had fulfilled a similar role from the thirteenth century under other names, such as the procurator general or *gerens vices*.¹²⁰ Consequently, in practice in Barcelona, the vicar (*veguer*), and in his place the subvicar (*sotsveguer*), applied death penalties that did not have to go through the municipal authorities because these sentences came from the governor's sphere. Therefore, when the vicar or subvicar applied a death penalty in Barcelona, they justified it with the equivalent sentence derived from the *juí de prohoms*, the governor general or the governor of Catalonia.¹²¹

In the Courts of 1350, the city of Barcelona protested explicitly against the procurator general for acting judicially in the city without respecting the exclusive powers of the local *juí de prohoms*:

The city is offended because said city has the privilege and ancient use

that the eminent citizens of the City judge in Criminal cases and, paying no attention to this, our lord Prince James, being in that moment general procurator of Catalonia despite said privilege of the city, sentenced some criminal cases, although he was certificated of said use and privilege and that a protest was presented.¹²²

In 1363, Barcelona council managed to obtain from King Peter the Ceremonious the confirmation that criminal affairs could only be judged by the city's *juí de prohoms*, and that the king or his firstborn, who represented him as the governor general, could only do so when they were physically in the city: "judging a criminal in absence of the King or his heir fell to the councillors of Barcelona".¹²³ That is why this circumstance was highlighted and described very clearly on each occasion. For example, in 1391, Prince Martin, Duke of Montblanc and the king's brother and his governor general since 1387,¹²⁴ heard a case with strong social reverberations and the sentence explicitly described his presence at the head of the tribunal, in the usual way, in a chamber of the lesser royal palace in Barcelona: "his lord the duke who it was said was present in the city and present said lord who was 'sedente pro tribunali' in the lower chamber of the minor palace of his majesty the king".¹²⁵

However, reinforcing the governor's ordinary judicial role upset the activity of the ordinary justice officers in the city, which led to negotiations between the governor and the municipal government that continued to invoke the exclusive powers for trial by eminent citizens (the local *juí de prohoms*).¹²⁶ The solution consisted of synchronising both institutions, holding a trial by eminent citizens with the governor".¹²⁷ In this framework, death sentences were issued, for instance in 1471 and another in 1473, the first against a non-privileged person and the second against a baron. Generally, the tribunal met at the request of the governor, as stated, for example, in 1483: "trial by eminent citizens at the request of the governor".¹²⁸

At the same time, the Royal High Court also had to be consolidated by hearing judicial cases in the king's name with a physical location in Barcelona.¹²⁹ Apparently this was a source of tensions, because the agreement maintained since the previous century was that trials in criminal affairs could only heard without going through the *juí de prohoms* if the king or his high representative were in the city. This was difficult to comply with given the combination of the fixed presence of the High Court and the permanent mobility of the king, especially in cases like that of Alfonso the Magnanimous, who resided in Naples from 1442 until his death in 1458.¹³⁰ In February 1451, a representative of Barcelona complained because the regent of the royal chancellery had proclaimed a death sentence that had been carried out by force despite the absence not only of the king but also

his deputy, Queen Maria:

Request from the representative of the city as a protestation before the regent of the chancellery and the special bailiff because the Queen being absent, in her name they had hung a man, who should have been judged by a jury of eminent citizens.¹³¹

The Royal High Court was reinforced as the crown's highest legal organisation, with governmental and judicial powers. After 1387, these were adapted to each of the territories (Aragon, Valencia and Catalonia) and so, from this high position, they pronounced judicial sentences from the monarch's own power.¹³²

At first, the relationship between the *Audiència* or Royal High Court and the city of Barcelona started with each respecting the other's spaces, anticipating that the former would stay within its own headquarters. In June of 1451, there was another confrontation that highlighted the problematic relationship. The vice-chancellor condemned a person to death and the accused was taken to the gallows. Just as he was about to be hung, the city's councillors obtained an order from the queen to free him because the rights of the city had been violated, because the vice-chancellor had issued his sentence in the court of the vicar, where the king's ordinary justice could only decide a death sentence through the *juí de prohoms*. Consequently, the accused, who was already up the ladder to be hung, was brought down and taken back to the Royal High Court. Once there, the vice-chancellor issued a corrected sentence in the name of the queen and the poor man was duly hung, although not on the gallows the city considered its own:

The honourable sir Joan Pagès, vice chancellor to his majesty the king being in the chamber of the court of the vicar condemned Pere Colom, teaseler, inhabitant of Barcelona, to be hung for certain thefts that he had done. And for executing the said condemnation he was ordered to be hung and he was sent to the Rambla, the place designated for hangings and he was already confessed and sent up the ladder. The honourable councillors, certified that the said acts proceeded against the form of the privilege, as the sentence or condemnation had to be done in the audience, three of said honourable councillors went immediately to her majesty the queen pleading with her that she was willing to stop the said execution until it be done according to the tenor and form of the said privilege. And the said lady graciously agreed. And the said condemned was returned to the audience of said her majesty the queen and here he was sentenced according to the form and tenor of the said privilege. And he was hung in the said place.¹³³

Furthermore, the tension in Barcelona over the municipal and royal spheres was maintained. In 1464, despite being in the midst of a civil

war, King Peter went to Barcelona explicitly to pass a death sentence in a case of sodomy, one that the city government had prevented from being proclaimed by only the Royal High Court without the presence of the king.¹³⁴

The importance of the trial by eminent citizens conditioned and orientated the royal justice. Given that justice was fully integrated into the discourse of pre-eminence which the king had to promote to maintain his position in the balance of powers, it is evident that the wide municipal power to apply justice in the name of the royal jurisdiction clashed with the discourse of strengthening this royal power. The feudal, bourgeois and monarchic society led to permanent negotiations,¹³⁵ and this would be adapted to the circumstances of each place from the second half of the thirteenth century.

The most complex and elaborate system was the one established in Tortosa, where municipal participation was channelled through two figures: the *paers* and the judges. There were four of the former, in accordance with letter to the *Paeria* in 1275.¹³⁶ These were chosen by the vicar, one per parish from among twelve eminent citizens (*prohoms*), to accompany him on all the activities of the district official. The second, affected by various changes during the fourteenth century, were two eminent citizens who had to accompany the vicar in such fundamental tasks as trials and the pronouncing of sentences.¹³⁷ It is significant that the judicial documents have been perennially conserved in the municipal archive of Tortosa under the epigraph “de paheria e veguer”,¹³⁸ thus showing the combination between the representative of the holder of the jurisdiction and the officials from the municipal sphere specifically, who participated together in the discharge of justice.

In all the other cases, this intertwining with municipal power was more direct: the same local magistrates participated in the judicial task. Thus, in Lleida in 1300, “post tractatus plurimos et deliberatione habita”, King James II agreed for his ordinary officer to be accompanied on the tasks of investigation and sentencing by two of the four councillors. These were not specific public servants but rather the city’s leading magistrates. The sentences they issued were transmitted to the “consilio dictorum paciariorum et decem proborum virorum vel principalium” chosen by the royal official from among the eminent citizens.¹³⁹ The latter could designate eleven members in cases of specific conflict.¹⁴⁰ In 1337, the rise in local prominence forced Peter the Ceremonious to recognise the participation of the councillors together with the vicar in the designation of the eminent citizens who had to make up the tribunal.¹⁴¹

The basic reference was local power, and so the approach was identical whether the jurisdiction was royal or baronial. Thus, the

municipal structure of Reus, a town that belonged to the chamberlain of the Cathedral of the neighbouring Tarragona during the Middle Ages,¹⁴² showed participation in justice: twenty-four eminent citizens recommended the sentence to the juries in the town.¹⁴³ In fact, in most places the power for legal intervention was held by the same people who were responsible for municipal government. So the same municipal magistrates judged the cases initiated by the jurisdictional official, as the juries in Valls indicated in 1340: “iuratos cognoscere possimus et cum probis hominibus dicti loci iudicari”.¹⁴⁴ Thus, in different places, the municipal and judicial tasks were kept together as two aspects of the same representativeness. In Tàrrrega in 1376, the local government explicitly stated that the eminent citizens who took part in trials had to be the same as those who held responsibilities in the council at that moment: “That the eminent citizens that have to be at the trial of said infractions be from the present council and not others”.¹⁴⁵ So when the local magistrates (called *paers* in Tàrrrega) and the members of the wider council, in other words, *paers e consellers*, took possession of their posts, among their responsibilities was one to participate in civil and criminal trials, to be concerned about justice and the truth and guided by their good understanding: “all trials that they had to do, civil or criminal, will be done in accordance with what they see and most just and true according to their good understanding”.¹⁴⁶

The usual procedure was the one in Cervera. When the jurisdictional officers finished their investigation (“in the end of the processes by the said officers done against the said prisoners”¹⁴⁷), they had to present their conclusions to the municipal council, who thus received “the confession, inquisition and trial” (*la confessió e inquisició e procés*).¹⁴⁸ They dealt with the case among other questions of local interest before announcing the verdict reached by a majority of the members of the council: “by the major part of the said council”.¹⁴⁹ In short, the same local officers who represented the town, who ruled and claimed their rights, were responsible for the sentences, including the death penalty, pronounced through the trial by eminent citizens as in the example from La Selva del Camp.¹⁵⁰

The role of local power was so complete that in cities like Lleida, justice was popularly identified as a municipal task and crimes were described not as presented before the ordinary official but rather to the municipal representatives: “it was denounced to the councillors”, that is, the “the lord councillors of the city of Lleida”.¹⁵¹ With all the symbolism involved, local governments of such places as Cervera not only argued that ordinary cases should always be heard in a trial by eminent citizens but they also frequently paid the cost of the corporal and capital punishments imposed by the tribunals that, in reality,

belonged to the royal jurisdiction. So, it can be perceived, that, in the end, what was sought was identification with and accumulation of the royal jurisdiction. In other words, there was never any desire to annul the king's jurisdiction but rather the contrary, that in the game of interests between different powers, the municipal representatives could speak in name of the king's jurisdiction.¹⁵²

The local influence in judicial matters was centred precisely on the capacity to punish crime. This was explicitly legislated for in Lleida in 1228, where it was specified that cases that could lead to physical punishment should not be judged by the jurisdictional officer (here called *cort*¹⁵³) but that he should be the simple executor of the sentence decided by the municipal representatives: "In criminibus illis qui penam ingerunt corporalem non iudicat curia, set consules et probi homines civitatis, quorum sententiam mandat curia exsecucioni".¹⁵⁴ The task of dictating death penalties was thus placed in the hands of the local eminent citizens. After listening to them, the president of the court usually proclaimed his verdict, as did the *cort* in Lleida¹⁵⁵ (merged after 1300 with the likewise royal vicar,¹⁵⁶ coming to be called *cort e veguer de Lleida*¹⁵⁷) beside the two councillors.¹⁵⁸

The rise in municipal power in the trial system was even more direct in Barcelona, where a verdict from the trial by eminent citizens was in itself definitive. Thus, while the royal vicar had done the necessary investigation of the crime, he warned the municipal representatives that it required a trial by eminent citizens—"the vicar had done the trial, and it only needed to be judged by the eminent citizens".¹⁵⁹ The local authorities immediately went on to select the eminent citizens who had to form part of the tribunal: "the vicar, having finished the process of investigation, denounced the accused to the councillors because he wanted to put him on trial by eminent citizens, and then they selected the members of the said trial".¹⁶⁰ This procedural path is very clear in the events of the 29th of November 1475:

The vicar informed the councillors that one accused of theft was held in the common prison, and the process of investigation had been carried out and it only lacked that the eminent citizens to judge him according to the local privilege, that is the reason why on the said day the selection of twenty four eminent citizens was made to carry out the said trial.¹⁶¹

The choice of specific eminent citizens to apply justice naturally mirrored the tensions that affected the same ruling group. This was to be expected at a time when there was a struggle within the urban oligarchy to protect the different strata and limit political leadership to a few powerful hands.¹⁶² Barcelona, where both the internal tensions¹⁶³ and external aspirations¹⁶⁴ of the local elite were taken to

an extreme, the tribunal of eminent citizens was explicitly adapted to the social and political evolution, reproducing the oligarchic monopoly. In this context, a balance was long maintained among the eminent citizens (*prohoms*) chosen for the tribunal, with six members from each of the urban estates (citizens, merchants, artists and artisans) chosen before twelve others as equally balanced witnesses. However, in 1493, the system was modified in favour of the first estate, which represented a smaller but more powerful sector of the population.¹⁶⁵ This group had eight members in the trial by eminent citizens, while the second and third had six each, and the last group only five.¹⁶⁶

The tensions in towns and cities where social differences became progressively wider led to local governments being organised through the participation of members of three groups, depending on trade and fortune, called *mans* (hands): *mà major*, *mà mitjana*, *mà menor*.¹⁶⁷ However, the unequal representativeness and different access to government everywhere led to tensions and mistrust.¹⁶⁸ When the lesser hand in Lleida presented their complaints to the king in 1360 “contra patiaris et consiliarios dicte civitatis”, this gives us a glimpse of the fear of rectitude in the exercise of justice by those who were monopolising local power.¹⁶⁹ The doubts raised about the objectivity of legal action in local hands became even more acute because of the growing fracture into factions that split all the towns and cities during the fourteenth century.¹⁷⁰ There were explicit conflicts, as in Tortosa, where a judge refused to share the judicature with members of the opposing faction¹⁷¹ and where in 1425 the fracture into bands fed the controversy about the designation of the *paers*.¹⁷² The reforms in the system for electing people to the posts accentuated the system by chance, as was applied in Barcelona, in an attempt to reduce these tensions. In fact, the demands in the performance of these functions, as was reiterated in Lleida, and especially the tensions from fractures in the urban structure (as in Tortosa and in Barcelona), led to difficulties in filling these posts in the local justice system. In the capital, measures had to be taken in 1445 and 1462 to force the elected members to participate and from 1459, and regularly after 1512, a number of replacement eminent citizens had to be chosen to cover vacancies among the holders.¹⁷³

There was a serious additional problem. This was the lack of legal knowledge among local representatives, because “the eminent citizens (...) ignored law”¹⁷⁴ and restricted themselves to complying with “the order and the establishment of the city” as they understood it.¹⁷⁵ The development of the Romanist legal model and stabilisation of a legal and institutional framework in agreement with the omnipresent jurists not only clashed with the system based on the good offices of the local

eminent citizens but also led to accusations that the system lacked the necessary guarantees. The king encouraged the controversy, hoping to reinforce the effective capacities of his ordinary officials and contain the rise of municipal power in the tense circumstances of the fourteenth century.¹⁷⁶ The orders adopted in the Parliament or Courts held in Montblanc in 1333 explicitly impeded judicial development without the proper legal guarantees, which required the presence of jurists in the legal system.¹⁷⁷ Paradigmatically, tensions arose immediately in Cervera when the royal officers used these recent constitutions of Courts to refuse to comply with the dictates on the application of torture and the death penalty emanating from the local authorities covered by the traditional practice of the “Council according to the ancient custom” (*conseyll segons costuma antiga*), that is, in local spelling, according to “our use” (*la nostra usança*):

now the said officers refused to handle the said sentences of execution although they should do it according to the ancient custom because one chapter by his majesty the king done in the Court that held this year in Montblanc denies the said usage given the royal officers cannot have someone placed in torment nor condemned to death or mutilation of members without offering him an adequate defence.¹⁷⁸

The jurists had been repeatedly consulted on procedures in the majority of actuations. Stability was achieved in Tortosa in 1347 by establishing that one of the two judges had to be a professional jurist (“one shall be a jurist”)¹⁷⁹ who in turn, from 1381, was the legal assessor to the other members of the jury (*assessors dels pahers*).¹⁸⁰ In Lleida, an agreement was also reached to normalise the presence of a legal assessor to the councillors, who were the same *paers* who had to issue sentences.¹⁸¹ This was the same solution agreed in Tarragona and regulated in 1407. There, after the trial was held in the court of the vicars,¹⁸² the process passed to the municipal legal assessor, who sent it with his advice to the *juí de prohoms*, which then pronounced the sentence.¹⁸³

The same demand for respect for the Romanist trial guarantees was imposed in capital sentences that derived from the municipal ordinances. The growing ease with which local powers resorted to the death penalty to try to order public life, applying it directly and rapidly, contrasted with the slowness under the legal forms with which it was applied in trials for crimes. The municipal governments wanted the judicial sentences dictated in their area to be carried out very rapidly, as was usually the case with those from the trial by eminent citizens, thus making it practically impossible to appeal against their verdict. Some examples from Barcelona and Lleida illustrate this. On Friday, the 23rd of December 1390, a Maltese man was condemned to the gallows in Barcelona for robbery and was

executed the following day, according to the usual norms.¹⁸⁴ The aim was to terrify through the alacrity of the response. On Friday, the 2nd of June 1391, a fight between two merchants in Barcelona led to one dying of his wounds the following Sunday night: “June, Friday 2nd. Wounded with a dagger in the abdomen the broker Ferrer Vendrell, by the broker Domingo Massasal which led the said Vendrell to die on Sunday at night”.¹⁸⁵ The murderer was executed on Monday, immediately after the usual legal steps had been followed. Similarly, in Lleida, in 1394 the Cypriot, Joan Muni, who had confessed under torture to various robberies, was executed the same day that the court of eminent citizens had condemned him.¹⁸⁶ The municipal power retained over legal questions by Lleida became precisely the best guarantee for fast and summary trials, including the ease with which torture was applied.¹⁸⁷ The exemplarity of punishment took priority, so, if needs be, execution could be delayed. This was the case in Lleida in 1420, when Bernat Soler, condemned to death as a thief,¹⁸⁸ was carefully attended to after trying to kill himself in the prison—“Have him given soups of wine and other healing foods and also had a hen killed and gave him the broth from that”—until he recovered enough to be duly executed.¹⁸⁹

In 1444, the councillors of Barcelona, acting as lords of the town of Tàrraga, tried to avoid an accused being submitted to trial by eminent citizens there because this “was hurried”.¹⁹⁰ The councillors ordered them not to act until the procurator from the city reached the town because it was his duty to proceed maturely and in good order: “must proceed maturely and in good order”.¹⁹¹ The city of Barcelona had acquired Tàrraga in 1391, together with other towns ceded by Prince Martin.¹⁹² Becoming lord of these places obliged the city of Barcelona to deal with local tensions in the surroundings and inside the towns, which meant they were unwilling to add more tensions to the city for little wealth.¹⁹³ In this situation, the mutual agreement established was that if the city’s procurator was not in the town, the local municipal authorities could proceed according to their traditional ways, because in the end, the men of Tàrraga could claim a long tradition of trials by eminent citizens that preceded the control by the country’s capital: “that judging the accused in the said town in the criminal trial the procurator being absent belongs to you by privilege or ancient concession and use”.¹⁹⁴

However, criticism continued everywhere regarding the procedural guarantees that the accused had to be offered. The usual speed with which popular juries acted did not allow time for the necessary guarantees, and even impeded the due right of appeal. In this sense, the guarantee of channels of appeal up to the Crown, like those the king partially imposed over the Lleida court in 1352, became a bone

of contention. This established the path to appeal through the vicar, including interlocutory sentences about torture,¹⁹⁵ as was stressed in 1359.¹⁹⁶ Despite this, these were not convictions, but rather strategies in the struggle for power. The requirement for legal guarantees and the establishment of a clear path for appeals became one of the main tools to strengthen royal power in the same royal jurisdiction, because it reinforced the role of the officials appointed by the king, and the latter's own position and that of his High Court. Beyond these strategies, in the royal environment capital sentences were also handed down and applied with great speed and little margin for legal guarantees if this was interpreted as favourable to its image and interests. In 1391, Prince Martin, acting as general governor, resolved a case of robbery with threats of a notary in Barcelona that had caused a great social commotion, after calling the urban militia to catch the accused. The Prince did not hesitate to resolve the case with a death penalty dictated and applied in terms and with a speed very similar to those that characterised municipal interventions.¹⁹⁷

Figure 8.2 The instrument for escobar (striking) the prisoners in the street, either as a punishment in itself or as a step prior to other punishments (BC, ms. 978, f. 13v)

In reality, the death penalty was assigned a moralising function, which is why its rapid application was valued among the populace. In Manresa, the aim was to execute the prisoner the day after the sentence was handed down.¹⁹⁸ In fact, in 1428, an important figure as the fiscal of the court of the royal vicar was executed two days after having been found guilty of the death of a canon in the main church in Manresa.¹⁹⁹ Reasons and subterfuges were generally sought to speed up and facilitate its application. Given that the municipal ordinances in Barcelona punished beggars and pimps with expulsion, with corporal punishment in case of re-offending and the death penalty if this were repeated, the latter circumstance was deemed sufficient to apply execution directly in 1442:

to a man for pimping for which he had been condemned to exile from the City, and in these terms, and that if he returned the first time was beaten, such as he was it, and if a second, he would be hung.²⁰⁰

Thus, the re-offending envisaged with precision in the municipal legislation justified being immediately executed with no other consideration, without even the final verdict from the tribunal of eminent citizens: "for which he was hung, without there being any need for another trial by eminent citizens, as the said banishment was done to him".²⁰¹

A stable legal system, constitutional guarantees, a legal practice

adequate for combining the powers of the estates and popular convictions conditioned the exercise of ordinary justice. It is thus worth going into greater detail about the application of capital punishment through an analysis of the death sentences dictated in late-medieval Catalonia.

Notes

- 1 “de dret civil ho per costum”, ACUR, llibre de la cort del batlle, 1, f. 9r.
- 2 *Cortes de Catalunya*, Real Academia de la Historia, Madrid, 1913, vol. 18, p. 94.
- 3 “segons Usatges de Barchinona, Constitucions e Capítols de Cort de Cathalunya, usos, custums, privilegis, immunitats e libertats de cascuna condició e de les universitats e singulars a aquelles, dret, justícia, equitat e bona rahó”. *Cortes de Catalunya*, 18, p. 166.
- 4 *Cortes de Catalunya*, Real Academia de la Historia, Madrid, 1896, vol. 1, p. 309.
- 5 “Que negú savi en dret en las ciutats, vilas ne encara en altres insignes locs no puxa advocar, ne offici de jutge o de assessor regir, si tots los sinc libres ordinaris de dret civil no ha, o almenys los libres ordinaris de dret canònic. E que aquells almenys haja oit per sinc anys en studi general”. (*Constitucions y Altres Drets de Catalunya*, I, book II, title *Constitucions y altres drets de Cathalunya*, Departament de Justícia de la Generalitat de Catalunya, Barcelona, 1995, 1st part, p. 174.)
- 6 Flocel Sabaté, “El veguer a Catalunya. Anàlisi del funcionament de la jurisdicció reial al segle XIV”, *Butlletí de la Societat Catalana d’Estudis Històrics*, 6 (1995), pp. 149–151.
- 7 “com fos denunciat”. ACA MR 1502, f. 80v.
- 8 ACA MR 1555, f. 14v.
- 9 “jo punisch e castich els delinqüents e malfeytors dins la juredicció de mi comanada”. ACBEB, Castellania i Templers II, 29, unnumbered.
- 10 “saber lo feit de la veritat”. AML, Administració de justícia, processos de crims A-771, f. 97v.
- 11 AHFF, Batllia de Montclús, llibre de cort 1336–1346, f. 15v, for example.
- 12 Michel Marechal, Jacques Poumarede, “La répression des crimes et des délits dans une coutume médiévale gasconne. L’exemple de Saint-Sever”, *107e Congrès National des Sociétés Savantes (Brest, 1982). La faute, la répression et le pardon*, Comité des Travaux historiques et scientifiques, Paris, 1984, p. 85.
- 13 “quarta e peremptoria citació”. ACBEB, Paeria i Vegueria I, 1, f. 40r.
- 14 AVV, registre 3, plec 1335–1332, unnumbered; ACBEB, Batllia II, 42, f. 4r; AMSJA, Carpeta Cúria secular. Processos 1371–1400, procés 1374, unnumbered, for example.
- 15 AVV, registre 4, plec 1329, unnumbered.
- 16 AVV, processos criminals, lligall 2, plec 3, unnumbered.
- 17 AHCG I.1.2.1, lligall 1, llibre 1, f. 48r.
- 18 Flocel Sabaté, “El somatén en la Cataluña medieval”, *Clio & Crimen*, 3 (2006), pp. 209–304.
- 19 “Torna la dita bandera ab lo dit veguer e ab l’onrat Galceran de Rosanes algtatzir del dit Senyor ab lo dit hom qui era estat remès per los de Martorell e fo mes com a pres en Castell Nou”. Frederic Schwartz, Francesc Carreras Candi, eds., *Manual de novells ardots, vulgarment apellats dietari del antich*

consell barceloní, Imprempta d'en Henrich y Companyia, Barcelona, 1892, vol. 1, p. 12.

- 20 “Vingueren los honrats en Simon de Marimon et en Ffrancesch Terre qui per part de la ciutat anaren a Blanes e Hostalrich per haver e amanar aquell malvat hom qui havia morta sa dona muller de monsenyor G. de Liçano”. Schwartz, Carreras Candi, *Manual de novells ardots*, 1, p. 74.
- 21 Flocel Sabaté, “The Defection of the Medieval Catalanian Bourgeoisie: A Mutation of Values or a Bibliographic Myth?”, *Urban Elites and Aristocratic Behaviour in the Spanish Kingdoms at the End of the Middle Ages*, María Asenjo-González, ed., Brepols, Turnhout, 2013, pp. 118–126.
- 22 Flocel Sabaté, “Barcelona: The Building of a Territorial and Ideological Capital”, *Viator*, 48/1 (2017), pp. 102–103.
- 23 Coral Cuadrada, *El régimen feudal en el Maresme (s. X–XIV)*, Universidad Nacional de Educación a Distancia, Barcelona, 1988, p. 79.
- 24 Joan J. Busqueta, Coral Cuadrada, “Un grup social a la conquesta de l’entorn rural. Els funcionaris regis i la seva implantació en el Pla de Barcelona i en el Maresme”, *L’Avenç*, 94 (1986), p. 40.
- 25 AHCB B-VI, lletres closes 2, f. 2r.
- 26 ACV 2-2-40 (B-9).
- 27 ACV 2-4-01 (B-10).
- 28 ACV 2-5-21 (A-14).
- 29 Flocel Sabaté, “El veguer i la vegueria de Tortosa i Ribera d’Ebre al segle XIV”, *Recerca*, 2 (1997), pp. 117–118.
- 30 Flocel Sabaté, “Ciudad e identidad en la Cataluña bajomedieval”, *Ante su identidad. La ciudad hispánica en la Baja Edad Media*, José Antonio Jara Fuente, ed., Ediciones de la Universidad de Castilla-La Mancha, Cuenca, 2013, pp. 188–189.
- 31 Jordi Vallés, Jordi Vidal, Maria Carme Coll, Josep Maria Bosch, *El Llibre Verd de Vilafranca*, Fundació Noguera, Barcelona, 1992, vol. 1, pp. 78–79
- 32 Max Turull, Montserrat Garrabou, Josep Hernando, Josep Maria Llobet, *Llibre de Privilegis de Cervera (1182–1456)*, Fundació Noguera, Barcelona, 1991, p. 318.
- 33 Flocel Sabaté, “Municipio y monarquía en la Cataluña bajomedieval”, *Anales de la Universidad de Alicante. Historia Medieval*, 13 (2000–2002), pp. 265–266.
- 34 “Alscuns homens del Vescomte occiren una fembra a les portes de la Vila sens tota raó, e aquells qui u feren anaren ves lo castell de Muntbuy e los homens del Vescomte mà armada defeneren contra lo so d’Aqualada aquells qui fet ho havien en manera que no·ls pogueren pendre”. *Cortes de Catalunya*, vol. 1, p. 408
- 35 “han oit dir o fama és”. AVV, processos criminals, bundle 3, unclassified, unnumbered.
- 36 Nicole Gonthier, “‘Mala fama et honneste conversacion’. Les critères de la morale populaire d’après les sources judiciaires aux XIVe et XVe siècles”, *Ordre moral et délinquance de l’antiquité au XXe siècle. Actes du colloque de Dijon (7 et 8 octobre 1993)*, Benoît Garnot, ed., Editions Universitaires de Dijon, Dijon, 1994, pp. 39–46.
- 37 Annick Porteau-Bitker, Annie Talazac, “La renommé dans le droit pénal laïque du XIII^e au XV^e siècle”, *Médiévales*, 24 (1993), pp. 68–76.
- 38 Thelma Fenster, Daniel Lord Smail, eds., *Fama: the Politics of Talk and Reputation in Medieval Europe*, Cornell University, Ithaca, 2003.
- 39 “le soupçon devient une arme, la mauvaise réputation un commencement de preuve”. Gonthier, *Le châtement du crime au Moyen Âge*, p. 86.
- 40 “Que és veu e fama que·l delat ha feyt lo homecidi açò és indicii indubitat

per lo qual se dona turment hoc encara condempnar. Item més, si diu que'l delat ha feyt matar hun hom e no n'ha testimonis quo ho aien vist, emperò provés com lo delat ere enemich del mort és veu e fama que lo delat o ha feit matar he lo delat s'és jactat que ell lo ha feyt matar he lo delat recepta lo qui avie feyt lo homicidi e lo homicida era domèstich e familiar del delat e que ja altres offenças avia etre ells, aquest és indicii indubitat no solament a turtura mas a condepnar". Ignacio J. Padilla, ed., *L'esperit d'Àneu. Llibre dels costums I ordinacions de les Valls d'Àneu*, Consell cultural de les Valls d'Àneu, Esterri d'Àneu, 1999, p. 152.

- 41 Flocel Sabaté, "Rechercher et s'informer sur le crime en Catalogne au XIVe siècle", unpublished.
- 42 ACPJ, parchment 56.
- 43 *Cortes de Cataluña*, vol. 1, p. 121.
- 44 *Constitucions y Altres Drets de Cathalunya*, I, book I, title XLVIII, chap. VI, *Constitucions y Altres Drets de Cathalunya*, 1st part, p. 117.
- 45 *Cortes de Cataluña*, 1st part, p. 309.
- 46 ACBC, pergamins, carpeta diplomes 16, 21.
- 47 AHCG XVIII. Llibre Verd, fols. 9r-v; Christian Guilleré, ed., *Llibre Verd de la ciutat de Girona (1144–1533)*, Fundació Noguera, Barcelona, 2000, p. 48.
- 48 AHCG I.1.2.1, lligall 1, llibre 2, f. 99r.
- 49 *Cortes de Catalunya*. Real Academia de la Historia, Madrid, 1901, vol. 4, p. 213.
- 50 "car sovint se esdevé per ineptitut de la demanda molts processos ésser anul·lats, la qual cosa als actors majorment pobres dona ocasió e matèria de lur dret a desamparar, per amor de açò ordenam e statuim que, per alguna impertinentia o ineptitut de demanda o de libell, pus que clarament se aparega de la intentió del demanant per la demanda o libel o encara per lo proçés, lo jutge no se abstenga de donar sentit en lo plet". *Constitucions y Altres Drets de Cathalunya*, I, book III, title X, chap. 8 (*Constitucions y Altres Drets de Cathalunya*, 1st part, pp. 210–211).
- 51 "per lo mal ús de son ofici, qui és fort acostat a mal a fer e a mal a dir de les parts contràries e a mal pensar contra ells tostemps, per obtenir a la fi el plet que emparen". Francesc Eiximenis, "Dotzè del Crestià", cap. CCCLXXXVI; (*Lo Crestià*, ed. Albert Hauf, Edicions 62-La Caixa, Barcelona, 1983, p. 221.
- 52 "deu haver pocs picaplets i bons"; "per bon estament de la cosa pública deu hom esquivar que no s'hi multipliquen molts juristes ne advocats". Eiximenis, "Dotzè del Crestià", cap. CCCLXXXIV, p. 217.
- 53 Aquilino Iglesia, *La creació del Dret. Una història de la formació d'un dret estatal espanyol*, Editorial Gráficas Signo, Barcelona, 1993, vol. 2, p. 99.
- 54 *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1908, vol. 12, p. 296.
- 55 Santiago Sobrequès, *Història de la producció del dret català fins al decret de Nova Planta*, Col·legi Universitari de Girona, Girona, 1978, pp. 55–62.
- 56 *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1912, vol. 16, p. 352; *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1913, vol. 18, p. 94 & pp. 161–166.
- 57 ACA, Cancelleria, 2002, f. 5v; AVV Processos criminals, lligall 2, plec 1300, unnumbered; Griselda Juliol, ed., *Llibre Vermell de la Ciutat de Girona (1188–1624)*, Fundació Noguera, Barcelona, 2001, p. 131, among many others, given that it was an usual and formal expression.
- 58 AVV, processos criminals, lligall 2, plec 3, unnumbered.
- 59 AHCB, ABVB, I, llibres 1–2.
- 60 Some legal dispositions emphasise this: *Costums de Tortosa*, 1.6.8; ed.: Jesús

Massip, *Costums de Tortosa*. Fundació Noguera, Barcelona, 1996, p. 61.

- 61 ACF, Processos vol. I, 1300, unnumbered; Liber consiliarium 1368, unnumbered, among others.
- 62 ANC 3.1.5.4.1.
- 63 ACVOC, processos, caixa 2, 1333, unnumbered.
- 64 AMSJA Carpeta Cúria secular, processos 1371–1400, procés 1374, unnumbered.
- 65 Flocel Sabaté, *Història de Lleida. Alta edat mitjana*. Pagès editors, Lleida, 2003, pp. 355–366.
- 66 Flocel Sabaté, “Las tierras nuevas en los condados del nordeste peninsular (siglos X–XII)”, *Studia Historica. Historia Medieval*, 23 (2005), pp. 152–157.
- 67 Josep Serrano Daura, “El ‘judici de prohoms’ a Lleida i la seva expansió vers la Catalunya Nova”, *XVII Congrès d’història de la Corona d’Aragó. El món urbà a la Corona d’Aragó del 1137 als decrets de nova Planta (Barcelona-Poblet-Lleida, setembre de 2000)*, Salvador Claramunt, ed., Publicacions Universitat de Barcelona, Barcelona, 2003, pp. 909–913.
- 68 Carme Batlle, “Vida i institucions polítiques a Barcelona (del 714 a la fi del segle XIII)”, *Història de Barcelona*, Jaume Sobrequés, ed., Ajuntament de Barcelona–Enciclopèdia Catalana, Barcelona, 1992, vol. 2, pp. 289–292.
- 69 Josep Maria Pons Guri, *Les col·leccions de costums de Girona*. Fundació Noguera, Barcelona, 1988, p. 24.
- 70 Gener Gonzalvo, *Les Constitucions de Pau i Treva de Catalunya (segles XI–XIII)*, Departament de Cultura de la Generalitat de Catalunya, Barcelona, 1994, pp. 133–141.
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- 72 Thomas N. Bisson, *L’impuls de Catalunya. L’època dels primers comtes-reis (1140–1225)*, Eumo editorial, Vic, 1997, p. 151; Stefano Maria Cingolani, “Lleida, agost (?) 1214”, *Revista de Dret Històric Català*, 15 (2016), pp. 77–93.
- 73 Oriol Oleart, “La terra davant del monarca: una contribució per a una tipologia de l’assemblea estamental catalana”, *Anuario de Estudios medievales*, 25 (1995), pp. 593–614.
- 74 *Cortes de Cataluña*, vol. 1, p. 92.
- 75 “Si la senyoria volrà fer enquisició general o especial, que o face ab voluntat et ab consentiment dels prohoms et que hi sien presents los jurats de la vila. En altra manera, la senyoria no ha acostumat de fer enquisició sens los dits jurats ab consentiment dels dits prohoms per tal com a els ve lo primer juhy et la primera sentència.”. Francesc Carreras Candi, “Ordinacions de Cabacers (any 1315)”, *Boletín de la Real Academia de Buenas Letras*, 11 (1924), pp. 317–318.
- 76 ACSG, clavaría 1, f. 1r; 3, f. 55v, 59r.
- 77 AML Administració de Justícia, processos de crims A-764, f. 3r.
- 78 “la ciutat haia privilegi que en les inquisicions deuen ésser II prohoms”. *Cortes de Cataluña*, vol. 1, p. 434.
- 79 Jaume M. Mans, Andreu Miñarro, eds. *Recognoverunt Proceres (transcripció del text original)*, Edicions Universitat Catalana, Barcelona, 1933, p. 8; Antoni Maria Aragó, Mercedes Costa, *Privilegios reales concedidos a la Ciutat de Barcelona*, eds., Archivo de la Corona de Aragón, Barcelona, 1971, p. 11.
- 80 Josep Maria Font i Rius, “Formació del municipi”, *Història de Barcelona de la prehistòria al segle XVI*, Agustí Duran i Senpere, ed., Editorial Aedos, Barcelona, 1975, pp. 281–282.
- 81 “solament lo batlle e los pahers e consell de la dita vila hagen lo juhí e jutgen e exercesquen la juresdicció en la dita vila segons que és acostumat”. ACUR,

pergamins, caixa 11, 1383.

82 ACAC, parchment 60.

83 ACAC, parchment 61.

84 ACAC, parchment 61.

85 ACSG, Llibre de Privilegis, f. 63v; Max Turull, Montserrat Garrabou, Josep Hernando, Josep Maria Llobet, *Llibre de Privilegis de Cervera (1182-1456)*. Fundació Noguera, Barcelona, 1991, pp. 284-285.

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88 Montanya, *El tribunal de coltellades*, pp. 196-199.

89 “per sentència de ciutadans de tot malefici que sia feyt en Tortosa ni en sos termes o en altre loc, si dins los termes era lo malfeytor pres”. Costums de Tortosa I.1.16; ed.: Massip, *Costums de Tortosa*, p. 13.

90 Sabaté, “El veguer i la vegueria de Tortosa i Ribera d’Ebre”, pp. 115-118.

91 AHCBE, Paeria i Vegueria II, 39; Privilegis III, 12.

92 AML, parchment 175-B

93 “las diffinitivas sentencias de les causas criminales qui donaven y proferian los naturales de la ciudad en Juy de Proms”. Josep Blanch, *Arxiepiscopologi de la Santa Església Metropolitana i Primada de Tarragona.*, Excma. Diputació Provincial de Tarragona, Tarragona, 1985, vol. 1, p. 179.

94 “Les parts gravades de les sentencias criminales proferidas per lo Juy de Pròmens de Tarragona se poguessen apel·lar de aquellas als veguers de la ciutat, y si també de aquestos se sentia gravamen en las matexas sentencias, se poguessen apel·lar a l’archebisbe”. Blanch, *Arxiepiscopologi de la Santa Església Metropolitana*, vol. 1, pp. 179-180.

95 Flocel Sabaté, “Ejes vertebradores de la oligarquía urbana en Cataluña”, *Revista d’Història Medieval*, 9 (1998), p. 139.

96 Christian Guilleré, *Girona al segle XIV*. Ajuntament de Girona-Publicacions de l’Abadia de Montserrat, Barcelona, 1994, vol. 2, pp. 415-450.

97 Josep Fernández Trabal, *Una família catalana medieval. Els Bell-lloc de Girona 1267-1533*, Ajuntament de Girona-Publicacions de l’Abadia de Montserrat, Barcelona, 1995, pp. 288-296.

98 Flocel Sabaté, “Les factions dans la vie urbaine de la Catalogne du XIVe siècle”, *Histoire et Archéologie des terres catalanes au Moyen Âge*, Philippe Sénac, ed., Presses Universitaires de Perpignan, Perpignan, 1995, p. 340.

99 “En Cathalunya lo Stat militar, e dels Ciutadans Burgesos, y homens honrats de Viles, axí per Constitucions, com altrament són reputats en un mateix grau, e stament, e axí en guerres en qualsevols parts, com en tots actes, y armes que’s pertanyen a Cavalleria”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d’Henrich y Companyia, Barcelona, 1916, vol. 5, p. 153).

100 ACSG, llibre del consell 4, f. 46r.

101 ACA C, “Papeles por incorporar”, 1379, unnumbered.

102 “Que si és hom de peratge o ciutadà honrat que sia escapçat e si és altre que sia penjat”. AHCBC, B-IV, llibre d’ordinacions, 2, f. 16r.

103 “Fou condemnat a levar lo cap un cavaller ab juy de promens, jatsie que allegàs que lo privilegi de juy de promens no’s estenie als gentils homens”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d’Henrich y Companyia, Barcelona, 1914, vol. 3, p. 42.

- 104 Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, pp. 42–43.
- 105 Pere Català Perea, “Decadència i moment actual dels castells”, *Els castells catalans*. Pere Català, ed., Rafael Dalmau editor, Barcelona, 1990, vol. 1, pp. 247–238; Pere Català, “Comentari marginal”, *Els castells catalans*, Pere Català, ed., Rafael Dalmau editor, Barcelona, 1991, vol. 2, p. 316.
- 106 AHCB, Fons Municipal, Llibre Verd, f. 227r-v.
- 107 Francisco de Sales Maspons y Labrós, “Un bandolero feudal”, *Memorias de la Real Academia de Buenas Letras de Barcelona*, 7 (1901), pp. 447–483.
- 108 Flocel Sabaté, “El poder soberano en la Cataluña bajomedieval: definición y ruptura”, *Coups d’État à la fin du Moyen Âge? Aux fondements du pouvoir politique en Europe occidentale*, François Foronda, Philippe Genet, José Manuel Nieto, eds., Casa de Velázquez, Madrid, 2005, pp. 484–498.
- 109 ACA MR 1547, f. 102r.
- 110 “fo sentenciàt per los prohomens de Barchelona”. ACA MR 1547, f. 99r.
- 111 Flocel Sabaté, “Barcelona, a Medieval Capital”, *European Review*, 25/1 (2017), pp. 54–56.
- 112 Coral Cuadrada, *El Maresme medieval. Hàbitat, economia i societat, segles X–XIV*, Caixa d’Estalvis Laietana, Mataró, 1988, pp. 432–440.
- 113 Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 41.
- 114 Josep Fernández Trbal, *Política, societat i economia en una vila catalana medieval. Molins de Rei 1190–1512*, Ajuntament de Molins de Rei, Molins de Rei, 2005, pp. 180–181.
- 115 “A 13 de octubre 1486, protesta del Síndich al Gobernador, per què havent capturat cert pres en lo terme de Vallvidrera, que és terme de Barcelona, lo havia portat a Molins de Rey, y après a Sant Feliu, y aquí li donà sentència de mort, y.l féu penjar al Coll de la Gavarra, forques de la Ciutat, que tot és terme de la Ciutat, per què.l havia de portar a Barcelona y judicar a Juy de Promens”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 44.
- 116 Flocel Sabaté, “Territori de Barcelona”, *Enciclopèdia de Barcelona*, Ramon Alberch, Jesús Giralte. eds., Enciclopèdia Catalana, Barcelona, 2006, vol. 4, p. 167.
- 117 “A 6 de octubre 1486, lo governador penjà un home a Sant Feliu, de què la Ciutat ne feu gran sentiment pretenent que no u podia fer per molts motius que allí’s rehonan, assenyaladament perquè allò és Territori de Barcelona, y la Ciutat hi edificà forcas”. Esteve Gilabert Bruniquer Gilabert, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gungalons, eds., Imprempta d’Henrich y Companyia, Barcelona, 1915, vol. 4, p. 73.
- 118 Carme Batlle, *Barcelona a mediados del siglo XV*, Ediciones El Albir, Barcelona, 1976, pp. 18–22.
- 119 “A 6 de juny 1443, venint una galera que havia portades virtualles, lo Governador prengué un hom que era vengut ab dita galera, y.l feu penjar, y lo Consell atenenent que assò era contra lo privilegi de las Vituallas y del Juy de Promens, ho cometé a consellers y 24 promens que què.y deliberen.”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, pp. 41–42.
- 120 Flocel Sabaté, “La Governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya”, *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 21–62.
- 121 ACA MR 1548, unnumbered.
- 122 “és agreuiada la dita Ciutat en ço, que com la dita Ciutat haia privilege e ús antich que’ls prohomens de la dita Ciutat jutgen en criminal e lo Senyor Infant En Jacme lavors procurador general de Cathalunya, no contrestant lo dit ús e privilegi de la dita Ciutat, jutgàs en alscons fets criminals, jats sia que ell fos

certificat del dit ús e privilegi e lin fos protestat”. *Cortes de Cataluña*, Real Academia de la Historia, Madrid, 1896, vol. I, pp. 430–431.

- 123 “judicar en criminal en absència del Rey o de son primogènit toca als consellers de Barcelona”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 5, p. 150.
- 124 ACA C, reg. 1914, f. 167r.
- 125 “lo senyor duch qui segons dit és era present en la ciutat e present lo dit senyor qui estech sedente pro tribunali en la sala baix del palau menor del senyor rey”. Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 12.
- 126 Sebastià Riera, “La potestat del Consell de Cent de Barcelona en matèria de justícia criminal: el ‘juí de prohoms’ (1442–1515)”, *XVII Congrès d’Història de la Corona d’Aragó. El món urbà a la Corona d’Aragó del 1137 als decrets de Nova Planta (Barcelona–Poblet–Lleida 2000)*, Salvador Claramunt, ed., Publicacions Universitat de Barcelona, Barcelona, 2003, p. 780.
- 127 “juy de promens ab lo governador”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 42.
- 128 “juy de promens a petició del governador”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 44.
- 129 Flocel Sabaté, “Corona de Aragón”, *La época medieval: administración y gobierno*, Pedro Porras, Eloísa Ramírez, Flocel Sabaté, eds., Istmo, Madrid, 2003, pp. 357–358.
- 130 Alan Ryder, *Alfonso el Magnánimo rey de Aragón, Nápoles y Sicilia 1396–1458*, Edicions Alfons el Magnànim, Valencia, 1992, pp. 313–527.
- 131 “requesta del síndich o protest devant lo regent de la cancellaria y del alguatzir per què absent la Reyna en son nom havian fet penjar un home, devtense judicar a juy de promens”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 42.
- 132 Maria Teresa Tatjer, *La audiencia real en la Corona de Aragón. Orígenes y primera etapa de su actuación (s- XIII y XIV)*, Universitat Pompeu Fabra, Barcelona, 2009, pp. 51–196.
- 133 “Lo honorable mísser Johan Pagès, vicicanceller del senyor rey stant en la sala de la cort del vaguer condempna en P. Colom perayre habitant en Barchinona per certs furts que havia fets, a ésser penjat. E com per exequir la dita condempnació lo manassen a penjar e fou a la Ramble loc designat a ésser penjat e fos ja confessat e pujàs per la scala, los honorables consellers, certificats dels dits actes procehits contra forma de privilegi, com la sentència o condempnació degué ésser feta en la audiència, tres dels dits honorables consellers anaren de continent a la senyora reyna supplicant-la que fos plasent a la sua senyoria la dita exequició cessàs trossus e quant fos feta segons vol la tenor e forma del dit privilegi. E açò la dita senyora graciosament atorgà. E de fet lo dit condemnat fou tornat en la audiència de la dia senyora reyna e aquí li fo dada sentència seguons la forma e tenor del dit privilegi. E fo penjat al dit loch”. Frederic Schwartz, Francesc Carreras, *Manual de novells ardots, vulgarment apellats dietari del antich consell barceloní*, Imprempta d’en Henrich y Companyia, Barcelona, 1893, vol. 2, pp. 126–127.
- 134 Schwartz, Carreras, *Manual de novells ardots*, vol. 2, p. 450.
- 135 Flocel Sabaté, “Poder i territori durant el regnat de Jaume I. Catalunya i Aragó”, *Jaume I. Commemoració del VIII centenari del naixement de Jaume I*. Maria Teresa Ferrer, ed., Institut d’Estudis Catalans, Barcelona, 2011, vol. 1, pp. 70–71.
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- 142 Ezequiel Gort, *Els senyors feudals de Reus*, Carrutxa, Reus, 1989, pp. 13–72.
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- 145 "que los promens que an a ésser al juhi dels dits bans sien del present consell e no altres". ACUR, llibre del consell, 4, f. 3v.
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- 147 "en fi dels processos pels dits oficials feyts contra los dits presos". ACSG, llibre del consell 1332–1333, f. 98r.
- 148 "la confessió e inquisició e procés". ACSG, llibre del consell 1332–1333, f. 75r.
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- 154 Pilar Loscertales de Valdeavellano, *Costumbres de Lérida*. Universidad de Barcelona, Barcelona, 1946, p. 72; *Els Costums de Lleida*. Ajuntament de Lleida, Lleida, undated, p. 113.
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- 158 Flocel Sabaté, "L'exercici judicial a Catalunya durant l'antic règim. Model i particularismes", *Els Llibres de Crims de la Ciutat de Lleida. La justícia Local a Catalunya (Lleida, març de 2007)*, Ajuntament de Lleida, Lleida, unpublished.
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- 160 "havent lo veguer denunciat a consellers que volia posar a juy de promens un delat, lo procés del qual ha compliment, feren extracció de dit juy". Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 43.
- 161 "lo veguer denuncià a consellers que un delat per ladre era pres en lo càrcer comú, y lo procés havia compliment e no resta sinó que los promens juxta lo privilegi judiquen aquell, per tant dit die fou feta extracció de 24 promens per fer dit juy". Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 43.
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María Asenjo-González, ed., Brepols, Turnhout, pp. 1–16.

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- 165 Marie-Claude Gerbet, “Patriciat et noblesse à Barcelone à l’époque de Ferdinand le catholique. Modalités et limites d’une fusion”, *Villes et sociétés urbaines au moyen Âge. Hommage à M. Le Professeur Jacques Heers*, Presses de l’Université de Paris-Sorbonne, Paris, 1994, pp. 138–140.
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- 174 “els prohoms (...) ignoraven dret”. ACAC, parchment 225.
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- 176 Flocel Sabaté, “États et alliances dans the Catalogne du bas Moyen-Age”, *Du contrat d’alliance au contrat politique. Cultures et sociétés politiques dans la péninsule Ibérique à la fin du Moyen Âge*, François Foronda, Ana Isabel Carrasco, eds., Université Toulouse II-Le Mirail, Toulouse, 2007, pp. 300–360.
- 177 *Constitucions y Altres Drets de Cathalunya*, I, book I, title XL.8 (*Constitucions y altres drets de Cathalunya*, 1st part, p. 127).
- 178 “ara los dits officials recussassen de menar les dites sentències a exequió axí com de costuma antiga fer deuen e són tenguts proposa’ns segons que és dit que I capítol pel senyor rey feyt en la cort que aquest an ha tenguda a Muntblanc contraste la dita usança com contingue que fos sos officials no sie alcú posat a turment ne condemnat a mort o mutilació de membres deffeniment degut a él”. ACSG, llibre del consell, 1, f. 98v–99r.
- 179 “la I sera savi en dret”. ACBEB, Provisions 3, f. 105v.
- 180 ACBEB, Provisions 14, f. 7r–v.
- 181 Sabaté, “L’exercici judicial a Catalunya”.
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- 184 Schwartz, Carreras, *Manual de novells ardis*, vol. 1, p. 8.
- 185 “Juny Divendres II. Naffra ab punyal que mes per lo ventre den Fferrer Vendrell corredor, Domingo Massasal corredor e morí lo dit Vendrel

- dicmenge a nit". Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 15.
- 186 Montanya, *El tribunal de coltellades*, pp. 172–179.
- 187 AML, Administració de Justícia. Processos de Crims A-764, f. 16r, for example.
- 188 This resort was not unusual "escaping the law's punishment". Alexander Murray, *Suicide in the Middle Ages*, Oxford University Press, Oxford–New York, 1998, vol. I, p. 304.
- 189 "feren-li donar sopes en vi e altre refeció e axi matex li feren matar una galina e donar del brou de aquella". AML, Administracio de Justicia. Procesos de crims, A-806, f. 146r-150v (ed.: Manuel Camps, *El turment de Lleida (segles XIV–XVII)*. Edicions de la Universitat de Lleida, Lleida, 1998, pp. 80–84).
- 190 "fos precipitós". ACUR Correspondencia, consellers de Barcelona, carta 5.
- 191 "se deu procehir madurament e digesta". ACUR Correspondencia, consellers de Barcelona, carta 5.
- 192 ACUR, pergamins, caixa 12, 1391.
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- 194 "que jutjar los delats en la dita vila en lo juy criminal absent lo procurador se pertanga a vosaltres per privilegi o concessió e ús antiquat". ACUR Correspondencia, consellers de Barcelona, carta 5.
- 195 Gras, *La Paheria de Lleida*, pp. 77–79.
- 196 Montanya, *El tribunal de coltellades*, pp. 122–123.
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- 198 Joaquim Sarret i Arbós, *Història de l'Estat polític-social de Manresa*. Imprempta i enquadernacions de Sant Josep, Manresa, 1925, p. 83.
- 199 ASM, Vegueria, lligall 178, plec 5, unnumbered.
- 200 "a un hom per alcavot per que.l havian condemnat a desterro de la Ciutat, y de sos termens, y que si tornava primera vegada fos escobat com ho fou, y si segona, fos penjat". Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 41.
- 201 "per ço fou penjat, sens que no y calgué altro Juy de promens, car ja eren estats fets per ell los dits bandejaments". Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 41.

9 The death sentences

The death sentences handed down in late-medieval Catalonia¹ are nothing less than a reflection of the circumstances that conditioned the social and political development of a country with serious jurisdictional fragmentation, adapted to a difficult fit between emerging powers and split by various social fractures, in the midst of a growing conviction of the exemplary function of physical punishment.

The death penalty as a means of intimidation was repeatedly and rapidly used in moments of extreme gravity, and it was loaded with admonitory significance. Good examples of this were the repression of the revolt by Berenguer Oller in Barcelona in 1285,² the disturbances around various Jewish quarters in 1348³ and especially the pogroms of 1391.⁴ Without any need to prove more serious acts, these disorders were punished with death, as stated in the sentences for those who, in the context of 1391, were simply participating in the insults and assaults on the Jewish quarters: “accused of the insults and riots in the Jewish neighbourhood”.⁵ The same exemplary urge led to the rapid resort to death sentences in moments of serious political difficulties by any of the parties involved. This happened after 1344 when the counties of Roussillon and Cerdanya were taken away from the king of Majorca⁶ and even in Barcelona of 1461, on the eve of the civil war.⁷ Without the need for large numbers of executions, the ease and force with which they were applied made it clear where power lay and the dangers faced by those who opposed it. The repression of the riots against the Jews makes us suspect that the authorities, as Jaume Riera warned, wanted to apply economic sanctions.⁸ That was consistent with the ease with which the king and his high representatives applied a kind of covert taxation by granting general remissions in exchange for large sums of money from towns and cities with the excuse of breaches of public order, while the affected places often even expressed their surprise because they considered the reason for these demands to be so serious.⁹ However, at the same time, given the conviction that the political control of society involved applying terror, all these extraordinary measures included the death penalty. The king clearly stated this when explained how to deal with the riots

of 1391: “to punish and correct these bad works which are followed, in such a way that it will pain those who have committed them and fear and example for the others”.¹⁰

Beyond these cases in these exceptional situations, the ordinary justice system applied the death penalty with more discretion. The average number of executions per year in the country as a whole in the first half of the fourteenth century was 12.48, and in the second half of the century, 17.74.¹¹ These raw figures hide numerous nuances. Capital punishment was much more frequent in the cities, beginning with the capital.¹² In Barcelona, the rate the ordinary justice applied this was very high, above 3 per year in the mid-fourteenth century, a figure that rose to over 5 in the 1370s, then fell to under 4 at the end of the century. Without reaching this level, the figures were also high in Perpignan, being the sum of the sentences by all the officers based there. These were the governor of the counties of Roussillon and Cerdanya, the vicar of Roussillon and Vallespir and the bailiff of the Perpignan, who together approached a figure of five executions per year in the 1380s. In contrast, the application of capital punishment was very unusual in lesser rural districts, while in the medium sized places, the average was low. Cerdanya, a natural region that was also an important crossroads in the heart of the Pyrenees, only reached an average of one execution a year in the tense decade of the 1370s. Given this low frequency, in many places when a death penalty was given, the gallows had to be checked and repaired —“repair the gallows”—or newly built.¹³ Just as significant is that professional executioners were only found in large places.

These executioners were in charge of both corporal and capital punishment. In the places without this posts, they usually had to be contracted specifically, paying for their travel and work. They usually came from the capital, generally avoiding mixing domains. However, there were no rules. In the second half of the fourteenth century when there was no hangman in the town of Puigcerdà, one was usually brought from Perpignan,¹⁴ the capital of the region composed by the counties of Roussillon and Cerdanya.¹⁵ However, on some occasions they were contracted in other places,¹⁶ especially La Seu d’Urgell,¹⁷ the closest city outside royal jurisdiction with clearly shared economic and social links.¹⁸

In the areas where the jurisdiction belong to nobles or barons, guarantees respected in the royal domains were easily forgotten, including constitutional obligations,¹⁹ and in various domains, judicial assistance was conditioned on the acquisition of certain safe conducts or *guiatges*. This was an apparent abuse which, in reality, was often interpreted as a compromise guarantee and, thus, gave a greater sense of security to the population affected. This reached the point that in

the first half of the fourteenth century, many people viewed it as an advantage not to live in a place submitted to the king: “the people leave the jurisdiction of our lord the King and move under the guidance of the nobles and the knights of Catalonia under a certain tribute”.²⁰ The supposed arbitrary nature of noble justice was not reflected in greater fear among the population. Moreover, the discourses that contrasted the “many oppressions, vexations and mistreatment” of noble harshness²¹ and the king’s “sweet”²² or “soft domain”,²³ really originated in the royal chancellery. They were based on Romanist reasoning²⁴ and, especially, were aimed at convincing the population to take the side of the jurisdiction of the king with enough conviction to contribute money so the king could retrieve the jurisdictions that he had ceded as collateral.²⁵ This situation accords with the statistical calculation that, beyond specific cases, the overall figures do not show a much higher rate of death penalties in the noble and baronial sphere than in the royal sector. In fact, there was no room for a lesser application of the death penalty in the idealised royal domain because, faced with the evil that assailed society, it came to be seen popularly as taking a hard line on crime. The argument used against the baronial domain was not based so much on the severity of the punishments but rather on their arbitrary nature, because it was generally accepted that disorder in society had to be severely punished as an example.

Accordingly, a greater tendency towards the death penalty can be seen in the popular tribunals. So, 38.5% of the sentences by the “*juí de prohoms*” in Barcelona were for death, to which another 50.47% of other physical punishments had to be added. In fact, the systems in which municipal governments participated show a clear tendency towards corporal punishment, rather than the financial penalties preferred by the ordinary courts. The aforementioned resistance, alleging “ancient custom”,²⁶ to applying the constitutional guarantees imposed in 1333²⁷ and the difficulty of adapting to the Romanist legal model started from the common acceptance of a system that, given its speed and physical incidence, was popularly more effective and moralising. The consolidation of the particular system of justice in Lleida became an excellent paradigm of a legal mode built on the royal jurisdiction and permanent municipal participation, taking on the traits of the brevity and speed of the trials and the easy resort to torture and the death penalty.²⁸

In all the cases, the death penalty was linked with specific periods of tension. The capital sentences aimed at repressing the harm resulting from the clashes between factions appeared at critical moments during the tensions in the second half of the fourteenth century.²⁹ A stiffening of sentences also coincided with social unrest

due to economic causes, and affected all reasons for punishment, thus reflecting the reigning tension. The three years immediately after the crisis in cereal supplies of 1376 saw 18 death sentences in Barcelona. The above-mentioned high rates of executions coincided with periods of social tension. Some punishments are evidence of the difficulties of the times, such as the increase in capital sentences for having stolen wheat (*havia furtat forment*) or grain (*gra*).³⁰ The concern with preserving the social and moral order was interpreted as being inextricably linked to preventing disruption of the prosperity of the towns and cities and avoiding divine wrath. At that time, the death penalty was used for offences that would not have been so harshly punished in other circumstances. These included non-compliance with the limitations of ordinances about arms, while the generalisation of social fears exacerbated the punishments for moral causes that could provoke God's wrath by offending Him with blasphemous words or questioning His design of nature through sexual behaviour.

There was no real direct relation between the crime and the punishment. In this sense, it has been stated by the historiography that all punishments were arbitrary given the leeway the judge enjoyed: "all the sentences were arbitrary in the sense that the judge could with just cause given the circumstances of the case, increase or decrease these".³¹ Nevertheless, the punishment would always be applied, in the words of King Peter the Ceremonious, according to the quality of the offence ("according to what the quality of the deed requires"³²) which in reality implied the existence of a criterion on which to base the reasoning.³³ The quality of the offence, the characteristics of the accused and the victim allowed the penalty imposed to be ordered and even predicted with a certain logic, this being, in the end, less arbitrary than some historians have supposed.³⁴ The application of justice was graduated following these items, culminating with physical punishment—*justícia corporal*—according to what Prince John argued, as General Governor, in 1367,³⁵ the privation of life being its peak.

The crimes considered most serious, namely those against nature itself, against the will with which God had organised the world and, consequently, that meant offence to the Creator, merited no other punishment than death.³⁶ The most ignominious punishment used in the Late Middle Ages was to repress male homosexuality,³⁷ given that this went directly against the only reproductive purpose that the sexual function was interpreted teleologically as having.³⁸ Given that the aim was to respect the design of nature created by God and so, the opening for reproduction in the sexual act, anal penetration of one's own wife would also merit the same capital punishment. This was applied in 1495 in Barcelona to Domingo Llobet accused of "de

peccato contra naturam contra Mariam, eius uxorem”.³⁹ All the courts, whether royal or baronial and based or not on the relevant “juí de prohoms”,⁴⁰ concurred in their evaluation of the seriousness of this and thus in the merciless application of capital punishment,⁴¹ applied with the greatest possible severity.⁴² Only extraordinary political factors could affect the result.⁴³ This happened with the charges of homosexuality against Count Ponç V of Empúries in 1311 which, promoted by the monarch at a moment of high mutual tension and, despite declarations by witnesses, did not lead to the count being condemned and executed, because the political tensions influenced the accusation and the results.⁴⁴

Crimes against the faith also went against the existing order in the world, and offended and upset the Creator, and so could easily lead to capital punishment.⁴⁵ The fear of upsetting God led blasphemy to be punished physically,⁴⁶ even in some infrequent cases, with the death penalty,⁴⁷ especially in the last third of the fourteenth century, similar to what also happened in other places, such as Valencia.⁴⁸ This was a significant change, because, in the preceding decades blasphemy, cursing God’s name was usually punished with fines.⁴⁹ This evolution is understandable, because by provoking divine wrath the whole community was damaged, as if it were a crime of State.⁵⁰ The strengthening of a Christian religiosity based on Aristotelean scholastic realism facilitated a common acceptance of an anthropomorphised God, who became angry with all of society if His norms were not followed.⁵¹ The steady increase in tensions and problems in the fourteenth century seems to confirm this vision,⁵² which is why both preachers and municipal governments were increasingly asking about the reasons for which God punished society⁵³ and the people and rulers followed ecclesiastical advice to calm divine wrath.⁵⁴ This fear meant that punishments were maximised for everything that could annoy God, whether blasphemy or other acts.

In this sense, more extensively, this concern, sustained and intensified since the fourteenth century by the doctrine of the Church, led to sorcery being criminalised.⁵⁵ This was linked to the devil⁵⁶ and compared to magic,⁵⁷ with activities carried out especially by women who were seen to challenge the established order and the power⁵⁸ through their specific arts of fortune telling, healing or, more frequently, poisoning. In the fifteenth century, the death penalty increasingly awaited those who fell into the witchcraft, which always had serious consequences, like killing people through such perverse ways as poison. This was exactly the case in the Pyrenees in 1485 of a woman accused of murdering with poison and who had taken the devils as her masters and paid homage to them:

she was accused of being a poisoner and a killer and accused of various very detestable crimes and offences, and it is clear that she had disowned our lord God and taken the devil for lord and paid homage to him.⁵⁹

More generally, sexual relations between Christians and Jews or Muslims were considered a frightful affront to the religion, so that, as usual in the rest of the Crown of Aragon,⁶⁰ they led to the death penalty. This was applied without contemplations to any non-Christian man who had lain with a Christian woman.⁶¹ In many cases the women were prostitutes who defended themselves by saying that their client had not identified himself properly, and increasingly there were women who freely had relations with Muslims, for example in Tortosa.⁶²

The obedience owed to the sovereign also justified using the death penalty in the crime of lese-majesty. This took specific forms, especially of the case of accusations of espionage in tense moments. In 1385, in the midst of the conflict between the monarch and the count of Empúries,⁶³ a Frenchman arrested in Pesillà in Roussillon was sentenced to death penalty as a spy, after accepting that he was carrying documents for the count. Consequently, two sergeants “went to Pesillà to bring to the said court Rigaut de Roerga of the French land, who had been caught with many letters that he was taking to the count of Empúries, and was then hung”.⁶⁴ The same punishment could be used for more localised fears. In 1391, in a climate of fear due to the havoc caused by Muslim piracy,⁶⁵ a hermit of Muslim origin was arrested in Tortosa. He lived in a cave in the Montsià mountains —“one Moor who was a hermit in the port of Montsià”—, which he was believed to use as a lookout to contact pirates. This led him to be condemned to death on the pyre, an unusual punishment for this type of crime, applied particularly in a difficult context, and which was adopted after different consultations between jurists (“some collations that the jurists made about the deeds of the said hermit”).⁶⁶ Evidently, being captured and accused of acts of piracy usually also led to capital punishment, unless one survived reduced to slavery.⁶⁷ Even those captured on the high seas could be taken ashore to be executed. There was a spectacular case in Barcelona in 1382, when “fuerunt suspensi extra murum novum Barchinone in loco vocato Alcanyet XXXII seraceni et unus squarterat, qui fuerant capti in uno rampi de cors per quadam galeam Barchinone armatam, de quibus XXI fuerunt conversi”.⁶⁸

The consolidation of royal power was behind the stiffening of the punishment of such crimes as counterfeiting. Certainly, beyond the economic damage this caused, what was especially emphasised was the affront to the monarch, who counted control of the coinage among

his royal prerogatives,⁶⁹ and one that contributed to placing him above the fragmented jurisdictional milieu.⁷⁰ On Majorca, the governor had to deal explicitly with forgers as this was seen as a crime of lese-majesty.⁷¹ In general, the medieval European monarchies placed counterfeiting currency at the same level or even within the crimes of lese-majesty until the nineteenth century.⁷² In the words of Peter the Ceremonious, “Criminibus lese maiestatis, fabulationis false monede et etiam sodomie” were the three most heinous crimes.⁷³ This was an expression that would be repeated as a formal legal expression to indicate the most serious crimes, often including heresy.⁷⁴ Consequently, in the second half of the fourteenth century, counterfeiters were given capital punishment, usually accompanied by the public destruction of the utensils they used.⁷⁵ It was a further step in consolidating royal power, as the forging of coins had been part of the strategies of conflict between lords,⁷⁶ and the Crown itself had no qualms about using this practice while persecuting it when it was against its interests.⁷⁷ However, forgers could sometimes escape capital punishment. In 1461 in Barcelona “four men were sentenced who made false coins and two were sentenced to be hanged and the other two were saved”.⁷⁸

The terrible effects of murder on the social order increasingly led towards capital punishment for the offenders, even more so with the growth of the tensions resulting from the fractures of all towns into factions. As the count of Urgell stated in 1318, if it is clear that the accused has committed an unwarranted murder, it is normal for them to be punished with death.⁷⁹ It is difficult to find murders that did not lead to capital sentences. Nevertheless, the social status of the culprit, the victim and the circumstances conditioned the judges’ decisions. In 1358, for example, the vicar of Barcelona and Vallès received payment of a fine of 160 shillings that redeemed a murder:

I received [the amount] in 6th August of the said year from Simon de Perallada, from the parish of Saint Vincent of Mollet, accused that he had wounded and killed Dolça, who lived in the sacarium around the church of Saint Vincent of Vallromanes.⁸⁰

To these infrequent cases, other ones must be added from the sovereign, whose supreme power could appear as a distorting factor, when he intervened by pardoning or commuting a sentence financially. To avoid social scandal, in 1351 a rule was established that prevented a redeemed murderer from residing in the place of the crime for five years except when agreement had been reached with the victim’s descendants:

that anyone who would have received remission of a homicide from us, or from other one who have authority to do it, may not return or be or stay in the place where the death was, in five years after the

remission obtained if have not reached a composition or understanding with the children or cousins closest to the dead.⁸¹

Some of these royal concessions, in contrast, were aimed at indulging petitions against the death penalty, especially in one specific case. This was the killing of a wife for adultery,⁸² despite the arguments of the moralists against this tolerance.⁸³ In fact, the king easily granted remissions for this reason: “tales remissiones semper facere gratiose”.⁸⁴ The sovereign was aware that not executing adulterous wife killers made him more popular and thus at times, he corrected the working of the ordinary justice system.⁸⁵ This did not mean adultery was usually accepted as a mitigating circumstance for the murderer, but in any case, people expected it to be taken into account, as requested before the vicar of Osona in 1333, for the murder of a wife in Sant Boi de Lluçanès together with her servant as an abettor.⁸⁶

If the homicide was by poisoning it was seen as more serious, in line with the measures against the illegitimate use of poisons,⁸⁷ the result of popular fears about these substances.⁸⁸ The unpredictable nature of the aggression, the trickery and treachery it implied, together with its symbolic significance, explains the generalisation that led it to be considered an abominable crime all over Europe,⁸⁹ even sometimes linked to magic or diabolical practices.⁹⁰ Moreover, the characteristics of the toxic substances itself could make it difficult to prove the accusation, either whether the accused had supplied the poison or that this was the real reason of the death, extremes that did not impede capital sentences from being imposed for this reason.⁹¹

In 1378, two leading barons became entangled in a dispute in a central square in Barcelona that ended with the death of one of them.⁹² The king immediately condemned the other to be decapitated: “On the 5th April of 1378, Gilabert Coloma killed Francesc de Sentmenat in Saint Anne Square (*Santa Anna*) and straight away the King had his head taken off”.⁹³ This resort to capital punishment was aimed at stopping urban violence caused by the serious factional divisions that shook all towns and cities. The death penalty could be applied to anyone deeply involved in the tensions between factions, even if they were not directly accused of murder. On the other hand, this contributed to suspicion about the rectitude of the measure taken in some cities where the fracture into bands involved all the population.⁹⁴ In 1350, in Barcelona “fuerunt suspensi Petrus de Vilardello, alias vocatus Pericondo, qui habebat magnam amicitiam et diversos valitores in civitate Barchinone; et Jacobus Canyet de Bitulone, homo valde expertus in armis et bricosus”.⁹⁵ In this climate in the Barcelona of 1379, the death penalty could be given for not complying with the ordinance limiting the carrying of arms—“the

ordination of his majesty the king concerning the arms”—and, with these, causing wounds to a rival: “having wounded one man”.⁹⁶

Sexual violence, with the rape of a woman, could lead to the death penalty if it was impossible to agree some kind of reparations,⁹⁷ either financially or through an adequate marriage,⁹⁸ for example, with the rapist himself.⁹⁹ Although the offence was considered inherent to the husband in the case of the rape of a married woman, the offence against single women was considered more serious¹⁰⁰ given the irreparable damage to her virginity,¹⁰¹ a necessary prerequisite for a good marriage.¹⁰² Attempted rape of a minor could lead to death row, especially if the accused belonged to the lower levels of society. In 1447, in Lleida the slave Joan Navarro was executed for an aborted attempt to rape a minor, as “the said slave threw her on the ground and raised her skirts and threw himself on top of her and kissed her, but he could not do it”. A nearby noise made him desist, leaving it as that “the said slave had wanted to corrupt said girl”.¹⁰³

In the same sense, the maximum punishment was generally used for the kidnapping of under-age girls for sexual purposes. In 1399, in Roussillon, a crime of these characteristics was committed by two Gascons and a clergyman. The first two were hung but the third was not, given his condition as a clergyman: “they took two foreign men to hang, the one whose name was Samsó Brassa and other Pere de Fusas, Gascons, accused that with one priest they had one child, daughter of Millars de Trullars and they took her”.¹⁰⁴ In the most of these cases, capital punishment was also applied to accomplices and consenters. This was what happened in 1361 in Roussillon, with the execution of “Bernat del Viver for having consented to kidnap a girl from Illa”.¹⁰⁵ The harshest punishments were reserved for those who raped very young girls.¹⁰⁶ This was in line with the practice in neighbouring kingdoms.¹⁰⁷

With the aim of preserving the social order, as we have seen, a series of laws calling for capital punishment were passed. These were both municipal and constitutional ordinances, such as the one in 1321 referring to bankers who went bankrupt and did not indemnify their clients.¹⁰⁸ Although this was applied infrequently, there was no hesitation in using it in an exemplary way, as with the execution of the banker Francesc Castelló: “On 10th November 1360, Francesc Castelló, bankrupt banker, was decapitated in front of his house in the Square of Exchanges of the Sea”.¹⁰⁹

Concerns about public order reached new heights and specific definitions in the fifteenth century. The political, social and economic evolution that strengthened the city of Barcelona, which was led by the same elite that at the same time were demanding a pre-eminent position in the country and before the Crown, beside the king

himself.¹¹⁰ This became exemplified in symbolically significant formal aspects, like the physical presence of city councillors at important events, such as the illness and death of the king.¹¹¹ However, this position helped to highlight the break-up of the city's ruling class. The bourgeois oligarchy, with the support of the high nobility and leading clergy, closed in on themselves (they even had a specific name for themselves: *ciutadans honrats*) with their conservative policies. Meanwhile, other notable people, like merchants, artisans and craftsmen, with the collaboration of some barons, worked explicitly for different policies regarding taxes and the municipal treasury, the currency, commercial protectionism and the structure and working of local government, as well as a wide programme of political proposals (creation of a *Studium Generale*, establishment of two annual fairs, etc.).¹¹² It was no longer a struggle by the emerging groups to make headway among the elite,¹¹³ but rather the members of the higher social levels adopting different criteria regarding the policy to use and demand from the Crown. Thus, political parties, called *gavelles* (or *gabelles*), were being formed with people who met to make proposals and political plots, with the tolerance of the governor of Catalonia, while the most traditional sector tried to prevent this through support for the queen, who ruled the country in the name of her husband, King Alfonso the Magnanimous who was living in his Italian domains. The tensions overflowed in April 1437, with a riot that left people injured. This was followed by death sentences handed down by the queen, the beheading of a baron (Bartomeu d'Hostalric) and the hanging of a cobbler, a tanner and a sword decorator, as was partially explained in the seventeenth century:

Friday the 14th of June 1437 (...) Bartomeu d'Hostalric, a young nobleman, was beheaded by order of our Lady the Queen in the Wheat Square because he was accused of doing a political plot (*gavella*) with others, two of whom had been hung some days before for the same reason.¹¹⁴

The accusation was clearly for having formed a *gavella* (political party), thus illustrating the negative aspect of belonging to a political faction or party, which, with the application of capital punishment was typified as a serious element that distorted urban social life.¹¹⁵ In fact, in different places during the century, it was accepted that reforms were required to avoid all kinds of urban tensions, which included political parties or *gavelles*. An example is the following from Olot at the end of the century: "there are continuously among the people, inhabitants and individuals of this town, discords, division, parties, oppressions, rumours and debates and other inconveniences".¹¹⁶

Very differently, theft was not usually punished by death even in

cases of reoffending, in other words, of committing various robberies —“various thefts”.¹¹⁷ The punishments which were usually used to intimidate thieves included practices such as the cutting off of ears. However, some prominent robberies led to swift capital punishment. Prince John was strict when he sentenced those who stole goods considered to be royal to death. This was seen in June 1369 when he proceeded, “to hang Jaume Martí of Valencia who our lordship the duke sentenced to be hung in the porch for having stolen wood from the royal galley”.¹¹⁸ More generally, the theft of grain could lead to the scaffold in times of scarcity. This happened in 1376¹¹⁹ in Barcelona to those who “had stolen wheat from the porch”.¹²⁰ Livestock theft was considered serious everywhere, but was more common in the interior and especially in the Pyrenees. The theft of sheep led to capital punishment as happened in 1375 in the subvicarage of Baridà to one who “had stolen wool-bearing livestock”.¹²¹ In other cases death was the consequence of the theft of draught animals. An example was in 1378 in the vicarage of Cerdanya where two thieves were convicted. One of them was hung, while the other was freed because he was able to claim to be a member of the clergy: “two thieves who stole three mules of whom one was hung and the other was freed because he was a clergyman”.¹²²

However, having robbed repeatedly was a very important aggravating factor.¹²³ Repeat offenders thus had clear possibilities of paying with their lives. Pere Ferrer was sent to death row in Roussillon in 1369 because he was “guilty of various larcenies”.¹²⁴ The same happened in Cerdanya in 1381 to Andreu Fabre who was sent to the gallows for “various thefts”.¹²⁵ Repeat offending indicated that the person was difficult to integrate in society. Half the thieves condemned to death had reoffended. This was consistent, because the capacity to be “accused of various and enormous crimes” was especially penalised,¹²⁶ and in fact, many of those sentenced to death had been found guilty of multiple different crimes: “some crimes”.¹²⁷ There was a general belief that repeat offenders usually had committed a range of crimes. This was the case of Pere Besià, who was detained in 1405 in the Vallespir by the subvicar, who accused him of being responsible for many crimes, like the death of a churchman and rape of women, among others: “that he was a very criminal man of many crimes and of death of a priest and of forcing females and other misdeeds”.¹²⁸ The death penalty had to be applied to these people because they were a danger to society. In the end, each of them was hung for their defects: “was hung for his demerits”.¹²⁹ It was a case of detecting and doing justice against bad people, “Justice to the evil man”. This implied punishing them and, by doing so, protecting society, because being bad people meant they were unable to correct

their behaviour, so executing them meant rooting out those liable to commit serious offences (“an atrocious offence”).¹³⁰

Figure 9.1 Depiction of man hung, together with information from the diary of the notary Jaume Safont about Antoni Avellaneda, later hung together with his son in Barcelona. 1454 (BC ms. 978, f. 42r).

The fall into this despicable condition was gradual and progressive and started with one's own conduct. That is why in all interrogations, as we have seen, the population were asked about the “public fame” of the suspect, because his or her customs and habits, his or her moral and public behaviour pointed towards the attitude and offences he or she would be able or inclined to commit.¹³¹ Consequently, all behaviour considered disorderly was taken into account. Having “public fame” for perjury, blasphemy, adultery or having been excommunicated, were factors that weighed against the accused.¹³² These traits not only tended to incline the court to consider the accused guilty, as we have seen with the working of the ordinary justice, but also, when it came to the sentence, made the punishment more severe. In this context, the position one occupied on the social scale was of greater importance. Being without a trade and poor became ever more dangerous and tended to lead to harsher penalties in the case of conviction. The distrust of this type of person grew with the social difficulties in the fourteenth century, while they became increasingly vulnerable, not only because of a lack of resources but also from being outside even the protection of factions.

All the lower layers of society were much more likely to receive the most severe punishments. In the fourteenth century, 4.5% of those executed were defined as captives, slaves or servants, while, at the other social extreme, only 1.75% formed part of the military estate. The latter figure rose as the century went by and almost doubled in the following century because of the tensions between factions. Although not from the lowest levels, the bulk of those punished were poor and had little education. A predominant social ascription to crimes is clear. Barons were especially affected by bloodletting and the lower strata by robbery, while such socially contemptible crimes as sodomy were found in the lowest levels of the society, especially among slaves and uneducated “Moors”. Ethno-cultural elements were also of great importance. The ordinances of Barcelona in 1350 against fugitive slaves envisaged, as we have seen, that capital punishment would be made harsher in the case of Muslims: “that any slave who is found escaping or has escaped, if they are Saracens, shall be dragged and hung and if they are Greek or baptised, shall be hung”.¹³³

Among women, discounting those punished for sleeping with

Muslims or for witchcraft, a third were prostitutes, a group mainly made up of outsiders without education or links. Most of the prostitutes in fourteenth-century Catalonia were from the Kingdom of Castile, followed by those from Sicily, Valencia and Majorca. In other words, they were foreigners and thus lacked the necessary links of support and solidarity.¹³⁴ It is not then surprising that “Borda, a female sinner” was executed in 1369 for a simple offence of blasphemy.¹³⁵

In reality, the status as a foreigner without education made one much more vulnerable. In 1394, a Cypriot, Joan Moni, was arrested in Lleida for theft. Apart from a failed attempt to take a pair of mules, he had only stolen a series of minor objects (a shield, a shawl, a sword and a crossbow) in the *vegueria* or vicarage of Lleida. However, it was shown that he had committed various thefts in other jurisdictions while travelling from Valencia. So, he was understood to be morally perverse. Also, being a foreigner without a trade or benefit, he had no protection from higher solidarities. All this ensured he was given capital punishment.¹³⁶ Significantly, in 1399, another foreigner, in this case from Bruges, was also condemned in Lleida for robberies committed outside the district. In his case, his higher social status allowed him to avoid capital punishment and he paid his debt by being publicly whipped: “beaten in the usual places”.¹³⁷ By including offences committed outside the jurisdiction of the accusation, the category of the accused was judged, emphasising his social perversity. At the same time, this also stressed the authority of who was judging. This was the case in the western capitals, which claimed the power to arrest anyone in their district, no matter where they had offended.¹³⁸

Among those executed in the country during the fourteenth century, 7.5% were not Catalan, a third of these came from the rest of the Crown (Valencia, Aragon, Majorca and Sicily, in that order, apart from the Sards taken to Barcelona after being captured in the war),¹³⁹ 30% from Castile and another 30% from France, with two thirds of the latter defined as “Gascons”. They were distributed unequally, with a predominance of the French in Roussillon and Castilians in Tortosa and Barcelona. The latter case is seen in an execution in 1371:

On the 7th of the month of January of the said year Joan de Sant Joan de Carmona, from the kingdom of Castile, accused of the death perpetrated in person of Joan de Josa was hung in the gallows of Montjuïc by a jury of eminent citizens.¹⁴⁰

In the fifteenth century, the social levels most severely punished by the ordinary justice became even more internationalised, with the proportion from the previous century practically doubling. From within the Crown, there was a predominance of Valencians, followed by Aragonese. The number of Castilians was growing and Gascons

were spreading throughout the land. One of them was sentenced to death by the *juí de prohoms* in Barcelona, in 1449, for a premeditated attack on another immigrant from the same origins¹⁴¹: “A Gascon was condemned to hang because he had deliberately inflicted a great stab wound on another Gascon”.¹⁴² Premeditation, as in this case, was always an aggravating factor.

The worst was where the accused had intentionally committed a crime against their own lord. It was not so much the idea of breaking an existing link, but more that of betraying the trust placed in a servant by the lord, and who might have even given him or her shelter. As seen in the discussion on municipal legislation in [Chapter 7](#), this was explicitly stated in the Customs of Tortosa,¹⁴³ and in other nearby places, like the legislation in Valencia.¹⁴⁴ It was always a very aggravating circumstance. This was explicitly cited, for example, in Roussillon in 1373, in the death sentence of a man who had stolen two old nags from the lord he served. He was arrested in Estagell, near the border with France, where he intended to take the stolen animals: “Pere Cantan from Auch who had stolen two nags from the lord who he was with and was taking them to French land and was captured in Estagell”.¹⁴⁵ In 1395 in Barcelona, two illiterate foreigners, one Maltese, the other Castilian, were detained at the same time accused of robbery. The difference was that the former had robbed a prominent notary, betraying his trust, because he was lodged in his house. This was sufficient reason to be condemned to death, while his companion was sentenced to be whipped through the streets and displayed on the pillory.¹⁴⁶ Similarly, in 1398, the man who had murdered the wife of a prominent knight in Barcelona, who he had served as squire and lived in his house, was sentenced to be quartered: *Die veneris XXVIII novembris anno predicto quidam scutifer, maligno ductus spiritu, interfert quendam dominam uxorem venerabilis Guillelmi de Luçano, militis, cum qua morabatur; qui scutifer fuit captus in villa of Blanis et ductus ad hanc civitatem, XXIII^a die decembris predictes anni in qua fuit ilico scorterat ante porticum Maris dicte civitatis.*¹⁴⁷

Nor would mercy be shown to the slave who harmed his owner, not even, in the Lleida of 1456, for “a slave called Jordi, of Miquel Cortés, mason”,¹⁴⁸ who had murdered his master as a result of the mistreatment that he received. His villainy led him to be sentenced to have his throat cut and be quartered—“have his throat cut and be quartered”—, with his remains being displayed in prominent places in the city as a warning to the population.¹⁴⁹

Another aggravating factor was breaking an agreement for peace and safety. The ordinary jurisdictional courts collected the voluntary agreements on peace and safety between opposing parties who agreed

to respect each other mutually¹⁵⁰ in very varied cases, such as incidences of marital violence¹⁵¹ or factional conflicts.¹⁵² There was, for example, the “Truce or security according to the good use and custom of the said City” that the opposing groups agreed in Vic in 1385.¹⁵³ This was similar to the formulae used in other countries.¹⁵⁴ In Lleida in 1342, Arnau de Mur was involved in the death of Jaume Domingo despite being obliged to be in peace. This aggravated his sentence, and he was condemned to “be dragged to the gallows before being hung”.¹⁵⁵

Premeditation, an aggravating factor explicitly invoked in other countries,¹⁵⁶ was taken into account especially if treachery was involved, and even more so if done under the cover of darkness¹⁵⁷ and with unlawful entry into the victims’ homes.¹⁵⁸ The outcome of these aggravating circumstances was further influenced by the category of the victim. Exemplary punishment encouraged capital sentences to protect prominent persons. The intention, in 1391, to rob a well-known notary in Barcelona by entering his house at night and threatening him merited the death penalty although the crime was not carried out.¹⁵⁹ Similarly, in 1333 in Cervera, a thief was tied and dragged before being hung for attempted robbery: “they tied him and they wanted to drag him as he had cut the bag of the lady Serra and thus was hung”.¹⁶⁰ More than how much had been stolen, the need to set an example and the fact that the victim was well-known and respectable were taken into account. The status of the victim was thus taken into consideration when dictating the sentence. In the extreme case, in 1492 when a serf—“pages de remença”¹⁶¹—attacked the king, there were no doubts that he deserved the most severe punishment.¹⁶²

Consequently, the same sentences were organised on a scale of the capital punishment to be applied, depending on the various concurrent circumstances. In 1483 in Barcelona, a black slave betrayed the trust of his master, a leading representative of the city, whose son was left at death’s door by poison that also killed his wife.¹⁶³ All the circumstances were summed up so that the *juí of prohoms* not only had to sentence him to death but also decide how this was to be applied given the seriousness of the facts. The sentence established that the accused had to be progressively dragged, torn, his throat cut and quartered:

the black slave of Joan Mateu, trustee of the city, was condemned to be dragged, torn, have his throat cut and be quartered for having killed the wife of his master with poison and having poisoned his son so that he was about to die.¹⁶⁴

Thus, the gravity of the crime could be reflected in the sentence. On the 15th of March 1369, the king sentenced two criminals brought from Sardinia to death and the punishment was ranked according to

the seriousness of the offences. The one who had spied for the Sardinian enemy was sentenced to be hung after having been dragged (*penjat e rossegat*).¹⁶⁵ However, the other who had also betrayed his lord and caused the loss of the castle in Cagliari was quartered (*squarterat*).¹⁶⁶

The diversity in the application of the capital punishment allowed similar criminals to be classified in the same sentence. In Perpignan in 1369, two people were sentenced to death on the gallows for murder. One of the criminals had murdered a bailiff, so his execution was aggravated by having his hand cut off beforehand.¹⁶⁷ It can be deduced that applying pain meant shame and degradation, and had been avoided for high-ranking people in previous centuries.¹⁶⁸ Although this may have been true, the urge to apply cruel physical punishment derived from the desire to achieve a deterrent effect with which to influence a society that was difficult to maintain under the necessary order. Generally, to make the punishment harsher, the court opted to drag or mutilate the prisoner before execution. The former option was applied in a 1371 sentence in Barcelona on a man who had murdered his wife despite having sworn in a prior agreement (*manament*) not to hurt her, as was usual for preventing domestic violence.¹⁶⁹ He even caused two other deaths while resisting arrest:

On the 17th of May of the said year of 71, after a trial by eminent citizens, Pere Balmes was dragged around the city and hung in the orchard of Saint Paul, accused of having killed Sibilia, his wife, although he had promised with an oath and homage to respect her. He also killed Guerau Loreta and Ramon Alí when these tried to seize him because of his crime.¹⁷⁰

Capital punishment on the gibbet, as pertained to the non-privileged population, was accompanied by prior mutilations in a third of the sentences for murder in the fourteenth century, this practice was very unusual in cases of robbery. In 1337, in Cervera, a thief was condemned to be rolled (*rodar*) before being hung (*penyat*)¹⁷¹ and in 1376, in Tortosa, someone who kidnapped a Sard slave who he later sold as if he were his own, had to be dragged and hung: *rossegat e penjat*.¹⁷² This way, which was very common in the popular courts, the sentence emphasised the seriousness by combining the gallows with a previous exercise of dragging (*rossegar*) or rolling (*rodar*) the accused among the people of the town. In the fifteenth century, corporal punishment before execution became more common due to a moralising conviction, which was more frequent in tense places such as the capital of the country. In the last quarter of this century, half of the sentences from the jury of eminent citizens in Barcelona added corporal punishment before the execution itself.

Some crimes merited a specific capital punishment. This was

especially so with counterfeiting. The aim was to highlight the economic damage of falsifying the coinage but also the seriousness of appropriating an asset that could at times belong to the king himself. That is why counterfeiters were generally dragged around the city —“one counterfeiter who was dragged”—before being hung while their tools were burnt: “a bundle of firewood to burn a box with the tools of the said counterfeiter”.¹⁷³

The accumulation of various crimes that could lead to the death penalty became an important aggravation in the forms and cruelty with which the capital punishment would be applied. In the second half of the fourteenth century, this happened with the habitual punishment for blasphemy, which usually involved perforating the tongue with irons. So, a blasphemer who had committed a serious robbery would have the perforation of his tongue added to the punishment for the theft. An example is the case in Barcelona in 1371, where a man who spoke badly about God was found guilty of having stolen from the Franciscan convent. The sentence by the *juí de prohoms* specified that he should have an iron bar put through his tongue while he was being hung:

Item on the 10th of the month of September we hung Joan de Bidossa accused of having stolen from the prior of Franciscans 300 florins and having spoken badly about God, because he was sentenced by the eminent citizens to hang on the gallows of Saint Andrew (Sant Andreu) and carry an iron bar through the tongue.¹⁷⁴

Very frequently, the sentence could order that the accused had to be publicly cut up with pincers. This usually happened with serious cases which had aggravating factors, and always for people of low social stature like, in 1357, the captive in Barcelona who was condemned to be dragged, tortured by pincers, his hands amputated and, finally, hung: *fo rosagat e atenayat e espuyat e pangat*.¹⁷⁵ In the most serious cases, the usual procedure was not to use the gallows, but to quarter the bodies (*scorterat*) and display the fragments in public places. Thus, the slave who murdered his master in Lleida in 1456 was sentenced to be dragged, his hands amputated and finally executed and quartered, the remains being put on public display.¹⁷⁶ The fate that awaited the wife accused of poisoning her husband¹⁷⁷ or a person who had murdered the wife of a prominent citizen of Barcelona¹⁷⁸ was for their bodies to be quartered and distributed.

Sentences included the permanent display of the human remains in prominent places in the streets as a deterrent. This implied quartering the body and distributing it. In some infrequent cases, to increase the sense of intimidation, it was explicitly stated that quartering should be done while the prisoner was still alive. Prince John shared completely the then both common beliefs according to the realism interpretation

of the religion: that God would become angry and send his wrath against the society that did not obey his will, and that the Jews were obsessed with killing God, which was the reason why they were known as deicides.¹⁷⁹ Consequently, he also shared the widespread belief that the Jews were willing to damage consecrated hosts¹⁸⁰, which, according to the explanations about transubstantiation, are the real God.¹⁸¹ Consequently, knowing that a thief had stolen a pyx that contained consecrated hosts and sold them to some Jews—"a thief who had stolen a pyx where there was seven sacred hosts, of which he had sold five to Jews"—¹⁸² he dictated an exemplary sentence that, as he explained to his father, called for the prisoner to be quartered alive: "the Christian man, my lord, will have his hands cut until he dies, being at the same time dragged and quartered".¹⁸³ The general belief in the deterrent effect inherent to quartering and the display of the remains increased over the last quarter of the fourteenth century and even more so in the fifteenth.

A capital sentence could also be conditional, to be applied in the case of non-compliance with another sentence imposed at the same time. Thus, in 1313 in Lleida, in a case of aggression, the culprit was sentenced to banishment from the city and, if he failed to comply, execution: "he is to be expelled forever from the city and its limits, so that if he is again found here, he has to be arrested and hung by the neck so he dies".¹⁸⁴

In any case, the most serious offences, those that went against faith and nature, and so offended God directly, would be sentenced to the worst of deaths, the pyre. As well as trying to make amends for the ire provoked in the Creator, the explicit aim was to instil *terror* because seeing those who had committed such serious crimes burning could discourage others who could be tempted in the same way.¹⁸⁵ All the late-medieval courts were clear that male homosexuals should be sentenced to be burnt: "they had sentenced to be burnt".¹⁸⁶ The same was done in Tortosa, with clear popular acceptance.¹⁸⁷ This shows a clear evolution since the writing of the *Costums*, which did not envisage this extreme.¹⁸⁸ Only in odd cases were homosexuals condemned to death not put on the pyre. In Valencia in 1452, Miquel Borràs, the son of a notary, who liked to dress as a woman and wanted to be called Margarita, was tried. He was hung dressed only in a short shirt, so that it was left quite clear that physiologically he was a man.¹⁸⁹

An unusual alteration of the natural order, such as parricide, could also lead to the pyre.¹⁹⁰ The more serious accusations for heresy and witchcraft also meant the same fate, sometimes tempered by the accused being previously drowned or strangled, as happened to some women in the Lleida at the end of the fifteenth century.¹⁹¹ The effect

of popular mentality was high, especially through reflecting fears. There was a real fear of the power of witches, poisoning and killing children, which justified sentencing them to burn on the pyre as mentioned in the Àneu Valley in 1424.¹⁹² Differently, but in the same vein, the accusation and sentence of a Muslim origin hermit to the pyre for having spied for the pirates became a real catalyst for the fears of Tortosa society in 1391.¹⁹³

Also in Tortosa, a Christian woman who had had sexual relations with a Muslim—"to lie carnally with a Moor",¹⁹⁴ ended up on the pyre.¹⁹⁵ In similar cases, the women protested her innocence, and often it was accepted.¹⁹⁶ In cases where the couple were found guilty, different penalties were imposed on one or the other. In a quarter of these cases, only the Muslim man went to the pyre. In reality, the practice differed in the two large capitals with Muslim populations, and Muslims were put on the pyre much more frequently in Lleida than in Tortosa. The social, ethnic and religious status of both was taken into consideration to justify different treatment of the two members of the relation, including the man's responsibility for seduction,¹⁹⁷ but gender was not really an argument for reducing the punishment.

The same penalty of death by fire was expected in cities such as Barcelona for both parties in sexual relations between Jewish men and Christian women.¹⁹⁸ The growth of these measures at the end of fourteenth century often sought to avoid the contacts between female converts and their old Jewish co-believers, especially when the rise in conversions was dividing Jewish families.¹⁹⁹ This was extended, by the authorities, preachers and people, to all contacts being avoided to protect the Christian faith from the perverse Jews.²⁰⁰

Throughout the territory, treatment according to gender was no different, as in other European countries.²⁰¹ Six percent of those executed were women, and they were sentenced without taking their gender into consideration.²⁰² In 1375 in Barcelona, a mother and her daughter were dragged and hung together: "*Die jovis secunda die augusti, anni proxime dicti, fuerunt rosegati seu suspensi, in civitate Barchinone, domina Maria, uxor Bartolomei Pera, quondam curatorii, et domina Bonanata, uxor Stephani Amargos, quondam, filiaque Marie*".²⁰³

The death penalty was foremost moralising in nature. For those sentenced to death, it was ignominious, as shown by a case in Vic. When the accused was asked whether he would prefer to die by drowning or hanging, he responded clearly that he would prefer to die in bed like anyone else: "*die in his bed like any another person*".²⁰⁴ Being executed, with the aim not only of punishing the offence but also the moral character of the delinquent, perceived through his or

her record and lifestyle, marked the people of reproachable conduct. This is what the subvicar (*sotsveguer*) of Lleida implied in 1482. He had hidden himself with other witnesses in the bedroom of Antoni Cellart to check how the latter shared his bed with his wife and a canon. When the subvicar approached the husband, who was already snoring—"que ja roncave"—to wake him and arrest him for consenting to adultery, he warned him that he would make sure he was condemned to death for his reproachable behaviour, a fate he had deserved for some time: "Oh traitor!, these things are good jobs, don't doubt that I will hang you, you should have been on the gallows days ago".²⁰⁵ In fact, everyone accepted that bad people committed serious crimes which deserved a shameful death penalty. Also in Lleida in 1458 a farmer found hidden in his wheat field two Muslim men having sex and his reaction was to yell: "Oh, dogs, why do this? You would be worthy of being burned!"²⁰⁶ So it was surprising that people considered irreproachable were sentenced to death, being thus "sentenced to die a bad death", as is stated in Barcelona in 1468 when a prominent jurist was executed in the context of the civil war.²⁰⁷

The moralising urge to deal with reprobates during times of social tension was combined with the fear that tolerating evil increased divine wrath, and it accentuated certain personal beliefs or postures, thus we can see that the personal convictions of some rulers affected how death sentences were carried out. This was especially so when the responsibility for deciding the sentence lay with an individual holding a high political post representing the Crown, such as the king or the procurator or governor general. Thus, there was a certain predictability to this. John I, firstly as Duke of Girona and acting as governor general while his father was still alive, and then from 1387 as king, was usually harsh when handing down physical punishment, especially in questions such as blasphemy that could indispose God. He reiterated specific sentences, not forgetting that, as well as being hung, prisoners who had blasphemed should have the tongue they had used for this blasphemy cut out and burnt.²⁰⁸ He also encouraged the torture of detainees who were later hung, which turned this torture into the beginning of the punishment. This happened in Barcelona on the 12th of July 1369, when torture with ropes was applied to an accused just because Prince John ordered it, not to extract information but rather because this person was guilty of many crimes and merited being tortured: "to torture the arms of Miquel Canals from the place of Lledó, who was tortured by order of the lord duke so he was found guilty of many crimes".²⁰⁹ And then, the following day, the death penalty laid down by the prince himself was applied: "the said Miquel Canals was hung by the sentence that the lord duke gave him and was put on the gallows of Montjuïc".²¹⁰ This practice was increasingly

frequent at that time. In Perpignan, there was the popular belief, partly encouraged by the governor of the counties of Roussillon and Cerdanya, that greater repression was the due punishment for the offender while also intimidating the rest of the population.²¹¹

When detailing how punishment should be applied, John I could rank it according to the supposed seriousness, also in questions of political origin. So, in January 1387, at the moment of the death of Peter the Ceremonious, his widowed queen, Sibila of Fortia, fearing the ire of her stepson and successor John I, fled with her loyal retinue.²¹² The new king ordered that the queen's helpers should be charged with lese-majesty for having abandoned the dying king.²¹³ The maximum punishment was applied, and on the 29th of April, Berenguer d'Abella and Bartomeu Lunes were executed by decapitation, as their status merited. However, the punishment for the latter, who had clashed with King John when he was the governor general, was made harsher by the order for him to be quartered and the parts displayed.²¹⁴ Thus, the same sentence to the death penalty could also set out the way in which it had to be applied precisely in order to specify the degree of seriousness accorded to the individuals. And here there was a wide margin for susceptibility and even personal preference by the official who decided the sentence.

The different considerations and details are reflected in the number of capital punishments. In the fourteenth century, a third of executions were for murder, 30% for robbery and 9% for male homosexuality. Between 4 and 5% were for interethnic sexual relations and the kidnapping of girls. There was the same percentage for spying and treason, followed by 2.77% who received capital punishment for public disorder. Between 1.5 and 2% of the total were for counterfeiting and, with the same percentage, heresy, followed by between 1 and 1.5% those accused of rape, and, with the same percentage, various states of complicity in robbery, murder, sexually-motivated abduction and rape, as well as another similar figure for those convicted of multiple violent crimes. Around 1% or less were for more unusual capital punishments, for such offences as blasphemy or fraudulent bankruptcy. In the following century, just over a third of punishments were for murder, followed also by robbery. The numbers penalised for sodomy increased even more, reaching 13%. There was a drop in those executed for counterfeiting, but in contrast, a rise of nearly 5% in capital punishment for sorcery and witchcraft. The reasons for people being sent to death row varied with gender, because the violence that predominated among men was not found among women, where robbery was the first cause, followed at a distance by interethnic sexual relations, occasionally proved in the New Catalonia, where there was greater coexistence with the Muslim

population. Significantly, in the fifteenth century, there was a rise in the number of women executed for sorcery and witchcraft.

Altogether, this shows that after giving the capital sentence, the application of the death penalty continued to be highly significant, with specific readings depending on the prisoner and, notably, towards society itself.

Notes

- 1 This chapter is based on the analysis of 393 death penalties in Catalonia in the fourteenth century and 145 from the fifteenth. These are from unpublished data extracted from the archives in Catalonia between 1987 and 1993 while preparing the PhD Dissertation at the University of Barcelona, as well as taking into consideration other information and fragmentary or partial data whether published or unpublished, referring to the same historical period.
- 2 Bernat Desclot, *Llibre del rei en Pere*, cap. CXXXIII; Ferran Soldevila, ed., *Les quatre grans cròniques*, Editorial Selecta, Barcelona, 1983, p. 518.
- 3 ACA C 897, f. 43v; ed. Amada López de Meneses, “Una consecuencia de la peste negra en Cataluña: el progrom de 1348”, *Sefarad*, 19 (1959), pp. 360–361.
- 4 Frederic Schwartz, Francesc Carreras, *Manual de novells ardots vulgarment apellats dietari de l'antich consell barceloní*. Imprempta d'en Henrich i Companyia, Barcelona, 1892, vol. 1, p. 25.
- 5 “delat dels insults e avalots del call”. ACA MR 1549, f. 59v.
- 6 ACP, AA5, f. 25r-v; ACCE, fons municipal, *Llibre de les cerimònies*, f. 8v; ed., Matías Delcor, “Dietari de Puigcerdà”, *Pirineos*, 43–46 (1957), p. 319.
- 7 Jaume Safont, *Dietari o Llibre de les Jornades (1411–1484)*, ed. Josep Maria Sans I Travé, Fundació Noguera, Barcelona, 1992, p. 154.
- 8 Jaume Riera, “Els avalots del 1391 a Girona”, *Jornades d'Història dels jueus a Catalunya*, Ajuntament de Girona, Girona, 1990, p. 140.
- 9 Flocel Sabaté, “L'augment de l'exigència fiscal en els municipis catalans al segle XIV: elements de pressió i de resposta”, *Col·loqui Corona, municipis i fiscalitat a la baixa edat mitjana*, Manuel Sánchez, Antoni Furió, eds., Institut d'Estudis Ilerdencs, Lleida, without date [1997], pp. 426–430.
- 10 “castigar e corregir aquestes males obres qui's són seguides, en tal manera que serà pena a aquells qui han delinquit e terror e eximpli als altres”. ACA C, 1961, f. 84v; ed.: Fritz Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, Akademie Verlag, Berlin, 1929, p. 159.
- 11 This is a projection carried out with the necessary prudence given that the sources we have available are geographically, chronologically and jurisdictionally fragmented. However, the inherent diversity is complementary and with the backing of the rest of the contemporary social data, gives validity to the calculation.
- 12 This is comparable with other countries, such as France, where “the death penalty progressed more in cities and important seigneuries than in the small towns or ecclesiastical fiefs where the officials have the reputation of being more lenient” la peine de mort progresse plus dans des villes et dans des seigneuries importantes que dans les petites bourgades ou dans les fiefs ecclésiastiques ou les officialités ont la reputation d'être plus clémentes”. Jean-Pierre Leguay, *Pauvres et Marginaux au Moyen Âge*, Éditions Jean-Paul

Gisserot, Paris, 2009, p. 224.

13 “adobar les forques”. ACA MR 1500, f. 71r.

14 ACA MR 1512, f. 68r, for example.

15 Flocel Sabaté, “Perpinyà capital baix medieval dels comtats de Rosselló i Cerdanya”, *La Ciutat i els Poders. Actes del Col·loqui del 8è Centenari de la Carta de Perpinyà (Perpinyà, octubre 1997)*, Louis Assier Andrieu, Raymond Sala, eds., Institut Català de Recerques en Ciències Socials, Socials de la Universitat de Perpignan, Perpignan, 2000, pp. 182–197.

16 ACA MR 1500, f. 71r.

17 ACA MR 1500, f. 72r.

18 Carme Batlle, “Les relacions entre la Seu d’Urgell i Puigcerdà a l’edat mitjana”, *Urgellia*, 1 (1978), pp. 349–362.

19 Flocel Sabaté, “El veguer a Catalunya”, *Butlletí de la Societat Catalana d’Estudis Històrics*, 6 (1995), p. 154.

20 “les gens parteixesen de la jurisdicció del senyor Rey e meten-se en guiatge dels nobles e dels cavallers de Catalunya sots cert tribut”. ACA C, Papeles por incorporar”, Cervera, unnumbered.

21 “moltes oppresions, vecsacions e mals tractaments”. ACGAX, parchments A-410, A-491.

22 “dolça”. ACA C, reg. 1560, f. 42v, 58v, 66v, 91r, 109r.

23 “suau senyoria”. ACGAX, parchments A-409, A-222.

24 Pere Albert, “Commemoracions”, *Usatges de Barcelona i Commemoracions de Pere Albert*, Editorial Barcino, Barcelona, 1933, p. 187.

25 Flocel Sabaté, “Discurs i estratègies del poder reial a Catalunya al segle XIV”, *Anuario de Estudios Medievales*, 25/2 (1995), pp. 642–643.

26 “costuma antiga”. ACSG, llibre del consell 1332–1333, f. 98r–99v.

27 *Constitucions y Altres Drets de Cathalunya*, I, book IX, title X.4 (*Constitucions y Altres Drets de Cathalunya*, Departament de Justícia de la Generalitat de Catalunya, Barcelona, 1995, 1st part, p. 421).

28 Flocel Sabaté, “L’exercici judicial a Catalunya durant l’antic règim. Model i particularismes”, *Els Llibres de Crims de la Ciutat de Lleida. La Justícia Local a Catalunya (Lleida, març de 2007)*, Ajuntament de Lleida, Lleida, unpublished.

29 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d’Henrich i Companyia, Barcelona, 1913, vol. 2, p. 310.

30 “Had stolen wheat”; “grain”. ACA MR 1548, unnumbered.

31 “totes les penes eren arbitràries en el sentit que el jutge podia amb justa causa atesa les circumstàncies del cas, augmentar-les o disminuir-les”. Víctor Ferro, *El Dret Públic Català. Les Institucions de Catalunya Fins al Decret de Nova Planta*, Eumo Editorial, Vic, 1987, p. 373.

32 “segons que la qualitat del fet requer”. ACA C, 1281, fol 122r; ed.: Joaquim Miret i Sans, “El procés de les hòsties contra ls jueus d’Osca en 1377”, *Institut d’Estudis Catalans. Anuari*, 4 (1911–1912), p. 80.

33 This is in line with what is known about other places: “The sentences awaiting anyone who the court has found guilty are not distributed lightly. The law inspired by both ancient customs and Roman law, has long defined them, the jurisprudence has modified them sometimes but the judge remains the only master regarding the choice and adaptation to each offender”. (“Les peines qui attendent celui qu’un tribunal a reconnu coupable ne sont pas distribuées à la légère. Le droit inspiré tout à la fois des anciennes coutumes et du droit Romain, les a définies depuis longtemps, la jurisprudence les a modifiées parfois mais le juge reste le seul maître quant à leur choix et à leur adaptation à chaque délinquant”). Nicole Gonthier, *Délinquance, justice et*

société dans le Lyonnais médiéval. *De la fin du XIII^e siècle au début du XVI^e siècle*, Éditions Arguments, Paris, 1993, p. 252.

- 34 Yolanda Serrano, “El discurso legal de la muerte religiosa y penal en el principado de Catalunya”, *El discurso legal ante la muerte durante la edad media en el noreste peninsular*, César González, Iñaki Bazán, eds., Servicio Editorial de la Universidad del País Vasco, Bilbao, 2006, pp. 501–502.
- 35 ACA C, 1708, f. 101r–103v; ed.: Fritz Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, Akademie Verlag, Berlin, 1929, p. 400–404.
- 36 In other areas of Europe, the justice has also been seen firstly to order the treatment as “to cruelly punish those refractory to the divine order on earth”. (“châtier de façon cruelle les réfractaires à l’ordre divin sur terre”). Joëlle Fuhrmann, “Punition de la violence par la violence: cruauté des sanctions dans le droit pénal médiéval en Allemagne”, *La violence dans le monde médiéval*, Centre Universitaire d’Études et de Recherches Médiévales d’Aix, Aix-en-Provence, 1994, p. 225.
- 37 Flocel Sabaté, “Evolució i expressió de la sexualitat medieval”, *Anuario de Estudios Medievales*, 23 (1993), pp. 186–187.
- 38 Flocel Sabaté, “La sexualitat a l’època medieval”, *Sexualitat, història i antropologia*, Xavier Roigé, ed., Edicions de la Universitat de Lleida, Lleida, 1996, pp. 51–52.
- 39 Jaume Riera i Sans, *Sodomites catalans. Història i vida (segles XIII–XVIII)*, Editorial Base, Barcelona, 2014, p. 178.
- 40 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candí, Bartomeu Gunyalons, eds., Imprempta d’Henrich i Companyia, Barcelona, 1914, vol. 3, p. 43.
- 41 ACBEB clavaría 23, p. 236.
- 42 ACBEB Paeria i Vegueria II, 61.
- 43 In other places, such as Burgundy, the general acceptance of the seriousness of this behaviour was also conditioned by the social importance of the accused. Nicole Gonthier, *Le châtement du crime au Moyen Âge*, Presses Universitaires de Rennes, Rennes, 1998, p. 163.
- 44 Joaquim Miret y Sans, *Sempre han tingut béch les oques. Apuntacions per la historia de les costumes privades (primera part)*, Stampa den F. Badia, Barcelona, 1905, pp. 47–54.
- 45 ACA MR 1475–1, f. 88v.
- 46 ACA MR 1547, f. 100r.
- 47 ACA MR 1547, f. 104r.
- 48 Pablo Pérez García, *La comparsa de los malhechores. Un ensayo sobre la criminalidad y la justicia urbana en la Valencia preagermanada (1479–1518)*. Diputació de València, Valencia, 1990, p. 98.
- 49 “jurar leyg de Déu”. ACA MR 1546–1, f. 18r.
- 50 Jacqueline Hoareau-Dodinau, *Dieu et le Roi. La répression du blasphème et de l’injure au roi à la fin du Moyen Âge*, Presses Universitaires de Limoges, Limoges, 2002, pp. 36–37.
- 51 Flocel Sabaté, *Vivir y sentir en la Edad Media. El mundo visto con ojos medievales*, Anaya, Madrid, 2011, pp. 51–53.
- 52 Flocel Sabaté, “L’Església secular catalana al segle XIV: la conflictiva relació social”, *Anuario de Estudios Medievales*, 28 (1998), pp. 775–788.
- 53 Pedro Ibarra, “Elig. Noticia de algunas instituciones y costumbres de la Edad Media”, *III Congreso de Historia de la Corona de Aragón*, Diputació Provincial de Valencia—Ajuntament de Valencia, Valencia 1928, vol. 2, pp. 40–42; Carme Olivera, Antoni Riera, Jérôme Lambert, Enric Banda, Pierre Alexandre, *Els terratrèmols de l’any 1373 al Pirineu: efectes a Espanya i a França*, Servei

Geològic de Catalunya, Barcelona, 1994, p. 93; Thomas Labbé, *Les catastrophes naturelles au Moyen Âge XII^e–XV^e siècle*, CNRS Éditions, Paris, 2017, pp. 176–178.

- 54 Vicent Ferrer, *Sermons*, ed. Gret Schib, Editorial Barcino, Barcelona, 1975, vol. 3, pp. 13–14.
- 55 Franco Cardini, *Magia, brujería y superstición en el Occidente medieval*, Ediciones Península, Barcelona, 1982, pp. 86–106.
- 56 Jaume de Puig i Oliver, “Nicolau Eimeric i la bruixeria”, *Per bruixa i metzinera. La cacera de bruixes a Catalunya*, Marina Miquel, ed., Departament de Cultura i Mitjans de Comunicació de la Generalitat de Catalunya, Barcelona, 2007, p. 36.
- 57 Richard Kieckhefer, *La magia en la Edad Media*. Editorial Crítica, Barcelona, 1992, pp. 65–104.
- 58 Nicole, Jacques-Chaquin, “La Sorcière et le Pouvoir. Essai sur les composantes imaginaires et juridiques de la figure de la sorcière”, *La sorcellerie*, École Normale Supérieure Fontenay/Saint Cloud, Paris, 1992 [*Les Cahiers de Fontenay*, 11–12 (1992)], pp. 24–32.
- 59 “és inculpada de metzinera e homeyera e inculpada de diversos crims e delictes molt detestables, e si guantinent que ha renegat de nostre senyor Déu e a prèls los diables per senyor e a prestat homenatge en aquell”. AML, Administració de justícia, Processos de crims, 822, f.5v; Miquel Montanya, *El tribunal de coltellades. Alguns aspectes processals*, Ajuntament de Lleida—Pagès editors, Lleida, 2007, p. 240.
- 60 Flocel Sabaté, “La sexualidad en al sociedad alicantina bajomedieval”, *Canelobre*, 52 (2007), pp. 130–133.
- 61 Claude Carrère, *Barcelona 1380–1462. Un centre econòmic en època de crisi*, Curial, Barcelona, 1978, vol 2, p. 159.
- 62 ACBEB Paeria i Vegueria I, 33.
- 63 ACA C 2014, f. 1r; ACBEB, Castellanía i templers II, 17; ACBEB Host i Cavalcada II, 42.
- 64 “anaren a Peyllà per menar pres a la dita cort en Rigaut de Roerga de la terra francesa, lo qual ere stat pres ab moltes letras que aportave al comte d’Ampúries, e puys fo pendut”. ACA MR 1525, fol 73v.
- 65 (“they made a public announcement with trumpets and drums to warn about the news about the galleys of Moors, this was the reason why the ships did not dare to go out and those that were at sea down there returned to Amposta”). “feren la crida ab trompes e tabals per rahó de les noves de galees de moros que hic són no sich gosasen partir les fustes ans aguessen a tornar tro Amposta les que són d’allí avall”. ACBEB, clavaría 28, unnumbered.
- 66 “I moro qui stava ermità en lo port de Muntçia”; “algunes collacions que hagueren los juristes sobre lo fet del dit ermità”. ACBEB, clavaría 28, unnumbered.
- 67 ACBEB, clavaría 18, p. 124.
- 68 “Crònica del racional de la Ciutat de Barcelona (1334–1417)”, *Recull de Documents i Estudis*, 1/2 (1921), p. 156.
- 69 Jaime Lluís y Navas-Brusi, “El delito de falsificación de moneda en Cataluña y en las Baleares bajo la Casa de Austria y sus precedentes medievales”, *Numisma*, 7/24 (1957), pp. 98–99.
- 70 Flocel Sabaté, “Discurs i estratègies del poder reial a Catalunya al segle XIV”, *Anuario de Estudios Medievales*, 25 (1995), p. 624.
- 71 Pablo Cateura, “La administración de justicia en la ciudad de Mallorca en la época de Pedro el Ceremonioso”, *En la España medieval*, 7 (1985), p. 1313.
- 72 Carmen López-Rendo, Emma Rodríguez, *El crimen de falsificación de moneda*

en *Derecho Romano y su recepción en derecho español*, Edisofer, libros jurídicos, Madrid, 2005, pp. 335–336.

- 73 AHC B C-V Miscel·lània, caixa 1, plec “de comissaris”, unnumbered.
- 74 ACGX A-491; ACA, fons locals, Agramunt, parchments 74, 95, among others.
- 75 ACA MR 1475–1, f. 79v.
- 76 Jaime Lluís y Navas-Brusi, “La ordenación de la amonedación de la Corona de Aragón en el siglo XIV”, *Numisma*, 20/102–107 (1970).
- 77 Jaime Lluís y Navas-Brusi, “Las falsificaciones estatales de moneda”, *Nummus*, 13–15 (1957), pp. 73–75.
- 78 “foren sentenciats IIII hòmens que feyen moneda falsa e agüeran sentència de ésser penjats II e los altres II foren restaurats”. Frederic Schwartz, Francesc Carreras, *Manual de novells ardis vulgarment apellat dietari del antich consell barceloní*, Imprenta de’n Henrich y Companyia, Barcelona, 1893, vol. 2, p. 388.
- 79 ACA C 363, f. 37v.
- 80 “reebí a VI d’agost del dit any des Simon de Perallada de la perròquia de Sent Vicens de Mollet delat que havia naffrada e morta na Dolça qui stava en la sagrera de Sent Vicens de Valsromanes”. ACA MR 1475–1, f. 14r.
- 81 “que algú qui de homey, diffinitió o remissió de nós, o de altre d’aquen havent potestat rebrà, no puxa tornar o ésser o estar en loc hon lo mort estava, dins sinc anys del temps de la remissió obtenguda comptadors, si doncs no ha feta composició o avinença ab los fills o cosins pus proïsmes del mort”. *Constitucions i Altres Drets de Catalunya*, I, book IX, title V.1 (*Constitucions y Altres Drets de Catalunya*, 1st part, p. 416).
- 82 ACA C 1900, f. 115v.
- 83 Francesc Eiximenis, *Dotze llibre del Crestià*, chap. CXLIII; ed.: Francesc Eiximenis, *Dotzè Llibre del Crestià*, eds. Curt Witllin, Arseni Pacheco, Jill Webster, Josep Maria Pujol, Josefina Figuls, Bernat Joan, Agustí Bover, Col·legi Universitari de Girona—Diputació de Girona, Girona, 1986, 2nd part, vol. 1, pp. 177–178.
- 84 Salvador Sanpere i Miquel, *Las costumbres catalanas en tiempo de Juan I*, Imprenta y librería de Vicente Dorca, Girona, 1878, p. 73.
- 85 Flocel Sabaté, “Femmes et violence dans la Catalogne du XIV^e siècle”, *Annales du Midi*, 106/207 (1994), pp. 305–306.
- 86 AHMV, llibre de Privilegis XXIV, parchment 408.
- 87 Francesc Carreras i Candi, “Ordinacions o establiments de Tortosa (anys 1340–1344)”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 11 (1923–1924), p. 406, 417.
- 88 Jaume Codina, Sabí Peris, “Ordinacions de Girona de l’any 1358”, *Annals de l’Institut d’Estudis Gironins*, 28 (1985–1986), p. 205.
- 89 Franck Collard, *Le crime de poison au Moyen Âge*. Presses Universitaires de France, Paris, 2003, pp. 160–180.
- 90 Joseph Shatzmiller, *Médecine et justice en Provence Médiévale. Documents de Manosque, 1262–1348*, Publications de l’Université de Provence, Aix-en-Provence, 1989, pp. 88–89.
- 91 AVV, plec of registres 123, plec 1388–1, unnumbered.
- 92 Antonio Borrás, “Contribución a los orígenes del bandolerismo en Cataluña. La pragmática de Carlos V de 1539”, *Estudios de Historia Moderna*, 3–4 (1953), p. 163.
- 93 “A 5 de abril 1378 Gilabert Coloma matà a Francesch de Semmenat a la Plassa de Santa Ana y de continent lo Rey li feu levar lo cap.” Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 2, p. 310.
- 94 Flocel Sabaté, “Les factions dans la vie urbaine de la Catalogne du XIV^e

siècle”, *Histoire et Archéologie des terres catalanes au Moyen Âge*, Philippe Sénac, ed., Presses Universitaires de Perpignan, Perpignan, 1995, pp. 344–352.

- 95 “Crònica del racional”, p. 120.
- 96 “La ordinació del senyor rey feta de les armes”; “haver nafrat I hom” ACA MR 1548, unnumbered.
- 97 ACA, MR 1548, unnumbered.
- 98 Leah Otis-Cour, “Réflexions sur l’application de la peine dans le Midi de la France à la fin du Moyen Âge, *La peine. Discours, pratiques, représentations*, Jacqueline Hoareau-Dodinau, Pascal Texier, eds., Presses Universitaires de Limoges, Limoges, 2005, p. 105.
- 99 AMP, FF20, f. 49r.
- 100 Flocel Sabaté, “Femmes et violence”, pp. 294–295.
- 101 Claude Gauvard, “*De grace especial*”. *Crime, état et société en France à la fin du Moyen Age*, Publications de la Sorbonne, Paris, 1991, vol. 2, pp. 814–816.
- 102 James A. Brundage, *Law, sex and Christian Society in Medieval Europe*, The University of Chicago Press, Chicago–London, 1987, pp. 487–536.
- 103 “lo dit sclau la lançà en terra e exequà-li les faldes i lançàs sobre ella e besà-la, emperò no l’ay pogué fer”; “lo dit sclau l’avía volguda corrompre a la dita fadrina”. AML, Administració de Justícia. Processos de crims, A-816, f. 56r–70v; ed.: Manuel Camps, *El turment de Lleida (segles XIV–XVII)*. Edicions de la Universitat de Lleida, Lleida, 1998, pp. 85–94.
- 104 “se’n menaren a penjar dos homens stranyis la I havia nom Samsó Brassa e Pere de Fusas, gaschons, delats que ab I capellà havien furtada I enfanta filla d’en Millars de Trullars e la se’n menaren”. ACA, MR 1528, f. 236r.
- 105 “Bernat del Viver per so com consentí apanar una enfanta d’Iyla”. ACA, MR 1522, f. 371r.
- 106 AML, Secció Administració de Justícia. Processos de crims, A-788, f. 105r.
- 107 Ricardo Córdoba, *El Instinto Diabólico. Agresiones Sexuales en la Castilla Medieval*, Servicio de Publicaciones de la Universidad de Córdoba, Cordova, 1994, p. 69.
- 108 *Constitucions y Altres Drets de Cathalunya*, I, book IX, title X.3 (*Constitucions i Altres Drets de Cathalunya*, 1st part, p. 420).
- 109 “a 10 de noembre de 1360, fou escapsat Francesch Castelló, banquer abatut, devant sa casa en la Plassa dels Cambis de mar”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers i Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gungalons, eds., Imprempta d’Henrich i Companyia, Barcelona, 1916, vol. 5, p. 63.
- 110 Flocel Sabaté, “Barcelona: the building of a territorial and ideological capital”, *Viator*, 48/1 (2017), pp. 107–116.
- 111 Flocel Sabaté, “La mort du roi en Catalogne: de l’événement biologique au fait historique”, *Faire l’événement au Moyne Âge*, Claude Carozzi, Huguette Taviani-Carozzi, ed., Publications de l’Université de Provence, Aix-en-Provence, 2007, p. 158.
- 112 Carme Batlle, “La ideología de la ‘Busca’”, *Estudios de Historia Moderna*, 5 (1955), pp. 167–195.
- 113 Flocel Sabaté, “Ejes vertebradores de la oligarquía urbana en Cataluña”, *Revista d’Història Medieval*, 9, pp. 130–140.
- 114 “divindres a 14 de juny 1437 (...) que fou escapsat en Bartholomeu Dolalench Donzell, per manament de la Senyora Reyna en la Plassa del Blat; per ço com era estat delat que ell ab altres havia feta gavella e alguns dies havia passats eran estats penjats per la dita rahó dos de altres”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 5, p. 9.

- 115 Carme Batlle, *La crisis social y económica de Barcelona a mediados del siglo XV*, CSIC, Barcelona, 1973, vol. 1, pp. 142–144.
- 116 “se seguexan entre los poblats, habitants e singulars de aquella malvolensas, discòrdias, gabellas, oppressions, remors e debats e altres inconvenients”. Antoni Mayans, Xavier Puigvert, *Llibre de Privilegis d'Olot (1315–1702)*, Fundació Noguera, Barcelona, 1996, p. 155.
- 117 “diverses furts”. ACA MR 1528, f. 235v.
- 118 “a penjar en Jacme Martí de València, lo qual lo senyor duch sentència a ésser penjat al porxo per tal com havia emblada de la fusta de la galera reyal”. ACA MR 1547, f. 100v.
- 119 Albert Curto, *La intervenció municipal en l'abastament de blat d'una ciutat catalana: Tortosa, segle XIV*. Fundació Salvador Vives Casajuana, Barcelona, 1988, pp. 213–215.
- 120 “havia furtat forment al porxo”. ACA MR 1548, unnumbered.
- 121 “havia panat bestiar de lana”. ACA MR 1512, f. 67v.
- 122 “dos ladres qui panaren tres mulats aflores dels quals ladres I fo penyat e l'altre remès per clergue”. ACA MR 1500, f. 71v.
- 123 Xavier Rousseaux, “La récidive: invention médiévale ou symptôme de modernité”, *Le criminel endurci. Récidive et récidivistes du Moyen Âge au XXe siècle*, François Briegel, Michel Porret, eds., Droz, Geneva, 2006, pp. 56–58.
- 124 “encolpat de diverses layronissis”. ACA MR 1523, f. 78v.
- 125 “Diversos furs”. ACA MR 1500, f. 72r.
- 126 “Delats de diverses e enormes crims”. ACA, MR 1528, f. 231v.
- 127 “Alscuns crims”. ACA MR 1500, f. 72r.
- 128 “que ere home molt criminós de molts crims e de mort d'un capellà e de forsar fembres e altres malificis”. ACA MR 1569, C-1, unnumbered.
- 129 “fo pendut per sos demèrits”. ACA MR 1525, MR 1526, f. 73v; f. 275v.
- 130 “justícia del malvat hom”; “un delictes atroç”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 2, p. 310.
- 131 Flocel Sabaté, *Rechercher et s'informer sur le crime en Catalogne au XIVe siècle*, unpublished.
- 132 AVV, Procesos criminales, vol. 2, plec 1372, unnumbered.
- 133 “Que tot esclau o esclava qui serà trobat fugent o que's de fugir, si és sarreyn o sarreyna, sarà rossagat e penjat e si és grech o grega o batiat o batjada, sarà penjat”. AHCB B-I, libre del consell 18, f. 14r-v.
- 134 Flocel Sabaté, “Evolució i expressió de la sexualitat medieval”, *Anuario de Estudios Medievales*, 23 (1993), p. 186.
- 135 “na Borda ffembra pecadora”. ACA MR 1547, f. 104r.
- 136 AML, Administració de Justícia, Processos de Crims, 797, f. 90r-94v; ed.: Montanya, *El tribunal de coltellades*, pp. 172–179.
- 137 “Açotat per les places acostumades”. AML, Administració de Justícia, Processos de Crims, 789, f. 55r-58r; ed.: Montanya, *El tribunal de coltellades*, pp. 196–199.
- 138 *Costums de Tortosa*, 1.1.16; Jesús Massip, ed., *Costums de Tortosa*. Fundació Noguera, Barcelona, 1996, p. 13.
- 139 In 1394, for example, on Wednesday the 2nd of September, they hung one Sard man who was taken from Sardinia to Barcelona by the governor of there. And he was taken for a spy (“setembre, dimecres II: penyaren I hom sart qui fo tramès de Sardenya in Barchinona per lo governador dellà. E era vengut per espia”). Schwartz, Carreras, *Manual de novells ardis*, vol. 1, p. 47.
- 140 “Item a VII del mes de janer del dit any Johan de Sent Johan de Carmona, del regne de Castella, encolpat de la mort perpetrada en persona d'en Johan de Josa fo penjat en les forques de Montjuhich per juy de prohomens”. ACA

- 141 Schwartz, Carreras, *Manual de novells ardis*, vol. 2, p. 73.
- 142 “fou condemnat un gascó a penjar per què ab pensa deliberada havia dada una gran coltellada a un altro gascó”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 43.
- 143 *Costums de Tortosa*, 9.2.4. ed.: Massip, *Costums de Tortosa*, p. 415.
- 144 The Valencian legislation, concerned about extraconjugal sexual relations of the wife or daughter, placed a special emphasis on punishing anyone who had seduced these by betraying the trust of the husband or father: “if anyone lives with his lord and eats his bread or takes his salary or benefit and lies with his wife or daughter or if he embraces the former as a wife or in any other way, he will be hung” (“si alcú estarà ab senyor o menyarà son pa o pendrà soldada o son benifet e jaurà ab sa muller o ab sa filla o si aquella arraparà per rahó, que la prena per muller o en altra manera que sia penyat”). Pedro López Elum, *Los orígenes de los “Furs de València” y de las Cortes en el siglo XIII*, Private edition, Valencia, 1998, p. 249.
- 145 “Pere Cantan de Aug qui avia amblats II rossins al senyor ab qui stave he manava·ls s’en en la terra ffrancesa e ffo pres a Estagell”. ACA MR 1524, fol 363r.
- 146 Schwartz, Carreras, *Manual de novells ardis*, vol. 1, p. 4.
- 147 “Crònica del racional”, p. 162.
- 148 “un sclau apellat Jordi, d’en Miquel Cortés pedrapiquer”. Maria Dolors Farreny i Sistac, *Processos de crims del segle XV a Lleida: transcripció i estudi lingüístic*, Institut d’Estudis Ilerdencs, Lleida, 1986, p. 63.
- 149 “que sia degolat e squarterat”. Farreny i Sistac, *Processos de crims del segle XV a Lleida*, p. 66.
- 150 Flocel Sabaté, “El veguer a Catalunya. Anàlisi del funcionament de la jurisdicció reial al segle XIV”, *Butlletí de la Societat Catalana d’Estudis Històrics*, 6 (1995), p. 149.
- 151 Flocel Sabaté, “Femmes et violence”, *Annales du Midi*, 106/207 (1994), p. 306.
- 152 Flocel Sabaté, “Les factions dans la vie urbaine”, pp. 362–364.
- 153 “Treva o seguretat segons bon ús e costum de la dita Ciutat”. AHMV, Llibre de Privilegis II, parchment 34.
- 154 Gonthier, *Le châtement du crime*, pp. 51–53.
- 155 “Sie estiraçat a les forques abans de penjar-lo”. AML, Secció Administració de Justícia processos de crims A-772, f. 82r.
- 156 Gonthier, *Le châtement du crime*, pp. 20–22.
- 157 AHMTM, parchment 40, among others.
- 158 ACBEB, Paeria i Vegueria I, 101, fol 1r; ACA C Varia 265, f. 35r.
- 159 Schwartz, Carreras, *Manual de novells ardis*, vol. 1, pp. 12–13.
- 160 “Ligaren e volien rodar com qui avie tayllada la bossa a na Serra e puxs fo penyat”. ACSG, Clavari 1, f. 37v
- 161 Flocel Sabaté, “Conflictes agraris i guerra civil a la Catalunya baixmedieval. Realitat i ficció historiogràfica”, *Miscel·lània Ernest Lluch i Martín*, Ferriol Soria, Jordi Ferrer, eds., Fundació Ernest Lluch, Vilassar de Mar, 2007, vol. 2, pp. 395–407.
- 162 Valentí Gual, *Matar lo rei. Barcelona, 1492*, Rafael Dalmau editor, Barcelona, 2004, pp. 29–30.
- 163 The victim entered into the state before death through the substances provided by the slave, not the opposite, thus discarding the case of euthanasia hypothetically proposed in the bibliography. Sebastià Riera: “La potestat del Consell de Cent de Barcelona en matèria de justícia criminal: el ‘juí de

prohoms' (1442–1515)", *XVII Congrés d'Història de la Corona d'Aragó. El món urbà a la Corona d'Aragó del 1137 als decrets de Nova Planta (Barcelona–Poblet–Lleida 2000)*, Salvador Claramunt, ed., Publicacions Universitat de Barcelona, Barcelona, 2003, p. 790.

- 164 "Fou condemnat lo sclau negre d'en Joan Matheu, síndich de la ciutat a ésser rossegat, atanallat, degollat y scorterat per què havia morta sa dona ab metzines y emmetzinat lo fill de son amo qui estava per morir". Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 44.
- 165 ACA MR 1547, f. 98r.
- 166 ACA MR 1547, f. 98r.
- 167 ACA MR 1523, f. 78v.
- 168 Georges Duby, *El amor en la Edad Media y otros ensayos*, Alianza Editorial, Madrid, 1990, pp. 179–180.
- 169 "The husband was fined with the specific obligation of 'no maltractar sa muller' (not mistreating his wife), which was concretely for the husband 'ban que no la tochàs' (the husband's obligation not to touch her), although often, as we shall see later, these '*manaments*' were not respected" ("On imposait au mari, sous peine d'amende, l'obligation spécifique "de no maltractar sa muller" (de ne pas faire du mal à l'épouse), ce qui devient concrètement envers l'épouse "ban que no la tochàs" (obligation pour le mari de ne pas la toucher), bien que souvent, comme nous le verrons plus tard, ces "*manaments*" n'aient pas été respectés"). Sabaté, "Femmes et violence", p. 306.
- 170 "A XVII de maig del dit any de LXXI per juy de prohoms fo roçegat per la ciutat e penjat a la orta de Sent Pol Pere Balmes, delat que havia morta na Sibília, muller sua, la qual havia assegurada ab sagrament e homenatge. Item havia morts en Gerau Loreta e'n Ramon Alí per ço con per lo dit delict lo volien pendre". ACA MR 1547, f. 108r.
- 171 ACSG, clavaria 3, f. 45v–46r.
- 172 ACBEB, clavaria 13, pp. 125–126.
- 173 "I moneder qui fo rocegat"; "una somada de lenya per cremar una caxa ab los ferraments del dit moneder". ACA MR 1475–1, f. 79v.
- 174 "Item a X del mes de setembre penjam en Johan de Bidossa delat que havia emblats al prior dez sachs CCC fflorins e que jurave leig de Déu, perquè fou jutjat per los prohoms a penjar en les forques de Sent Andreu e portar I fust de fferra en la lengua". ACA MR 1547, f. 110r.
- 175 "He was dragged, tortured with pliers, his hands amputated and hung". ACA MR, 1546–1, f. 22v.
- 176 Farreny i Sistac *Processos de Crims del Segle XV*, pp. 65–66.
- 177 ACA MR 1569 A-2, unnumbered.
- 178 Schwartz, Carreras, *Manual de Novells Ardits*, vol. 1, p. 74.
- 179 Miret i Sans, "El procés de les hòsties", pp. 59–80.
- 180 Flocel Sabaté, "Les juifs au Moyen-Âge. Les sources catalanes concernant l'ordre et le désordre", *Chrétiens et juifs au Moyen Âge: sources pour la recherche d'une relation permanente*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2006, pp. 124–136.
- 181 Marilyn McCord Adams, *Some Later Medieval Theories of the Eucharist*, Thomas Aquinas, Giles of Rome, Duns Scotus, and William Ockham, Oxford University Press, Oxford, 2012, pp. 85–255.
- 182 "I ladre qui havie amblada una custòdia on havia VII òstias sagrades, de les quals havien ací venudes a juheus V". ACA C, 1708, f. 101r–103v; ed., Fritz Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, Akademie Verlag, Berlin, 1929, pp. 400.

- 183 “lo crestià, senyor, tots temps tro a la mort tollen los punys, recegant-lo e esquarteran-lo”. ACA C, 1708, f. 101r-103v; ed.: Baer, *Die juden im christlichen Spanien*, p. 404.
- 184 “Sie bandit per tots temps de la ciutat e del terme, axí que nuyll temps hic pot ésser trobat pres ni aturat, que sie pengat per la gola axí que.s muyre”. AML, processos de crims A-764, unnumbered.
- 185 ACBEB, Paeria i Vegueria II, 61, f. 152v-153r.
- 186 “foren sentenciats a ésser cremats”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 43.
- 187 ACBEB, Paeria i Vegueria II, 61.
- 188 *Costums de Tortosa*, 9.24.3; ed.: Massip, *Costums de Tortosa*, p. 485.
- 189 Vicente Adelantado, “La pena de muerte como espectáculo de masas en la Valencia del Quinientos”, *Estudios sobre teatro medieval*, Josep Lluís Sirera Turó, ed., Publicacions de la Universitat de València, Valencia, p. 23.
- 190 Jaume Riera, “Penjar pels peus”, *Cristianos y judíos en contacto en la edad media: polémica, conversión, dinero y convivencia*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, p. 609.
- 191 Montanya, *El tribunal de coltellades*, p. 240.
- 192 José I. Padilla. ed., *L’esperit d’Àneu. Llibre dels costums i ordinacions de les Valls d’Àneu*, Consell Cultural de les Valls d’Àneu, Esterri d’Àneu, 1999, p. 148.
- 193 ACBEB, Clavari 28, pp. 111-119.
- 194 “jaure carnalment ab moro”. ACBEB, Clavari 30, f. 130r.
- 195 ACBEB, Paeria i Vegueria I, 33.
- 196 Flocel Sabaté, “Evolució i expressió de la sexualitat medieval”, *Anuario de Estudios Medievales*, 23 (1993), p. 181.
- 197 ACBEB, Paeria i Vegueria I, 34.
- 198 Claude Carrère, *Barcelona 1380-1462. Un centre econòmic en època de crisi*, Curial, Barcelona, 1978, vol. 2, p. 159.
- 199 Asunción Blasco, “La investigación sobre los judíos del Reino de Aragón hoy”, *Espacio, Tiempo y Forma. Serie III. Historia Medieval*, 6 (1993), p. 351
- 200 Flocel Sabaté, “L’ordenament municipal de la relació amb els jueus a la Catalunya baixmedieval”, *Cristianos y judios en contacto en la edad media: polémica, conversión, dinero y convivencia*, Editorial Milenio, Barcelona, 2009, pp. 758-784.
- 201 Annik Porteau-Bitker, “Criminalité et délinquance féminines dans le droit pénal des XIIIe et XIVe siècles”, *Revue historique de Droit française et étranger*, 59 (1980), p. 50.
- 202 Historians have generally stated that medieval women were not hung (Rodrigue Lavoie, “Justice, criminalité et peine de mort en France”, *Le sentiment de la mort au Moyen Age*, Claude Soutto, ed., Université de Montréal, Quebec, 1979, p. 45), although the Catalan documentation confirms that they were, as do some artistic works which depict this practice such as a bas-relief in the pulpit in the church of Saint Claire (santa Chiara) in Naples in the first half of the fourteenth century (currently in the Santa Chiara Museum Complex). Nevertheless, in other European countries women were executed by drowning. This was done in Nuremberg until 1580, after which they were hung (Martin Schieber, *Nuremberg, the Medieval City*, Sandberg Verlag, Nuremberg, 2009, p. 50). Different sixteenth-century representations show women hanging in such countries as England. (Jeffrey Richards, *Sex, Dissidence and Damnation. Minority Groups in the Middle Ages*, Routledge, London-New York, 1990, pp. 84-85).
- 203 “Crònica del racional”, p. 150.
- 204 “morir a mort de son lit axi com altre persona”AVV, Processos criminals,

lligall 2, 1372–2, unnumbered.

- 205 “O en traydor, són bones fahenes aquestes, no cureu que yo us penjaré, que ja dies ha devieu ésser en la forca”. Montanya, *El tribunal de coltellades*, p. 225.
- 206 “O cans! Per què feu açò? Mereixerieu que fosseu cremats!” Camps, *El turment a Lleida*, p. 99.
- 207 “sentenciat morir a mala mort”. Josep Maria Sans Travé, ed., *Dietaris de la Generalitat de Catalunya*, Departament de Presidència de la Generalitat de Catalunya, Barcelona, 1994, p. 192.
- 208 ACA MR 1547, f. 100r.
- 209 “A torturar los braços an Michel Canals del loch des Ledó, lo qual tormentam per menament del senyor duch per tal com ere encolpat de molts crims”. ACA MR 1547, f. 101r
- 210 “Lo dit Michel Canals fo penjat per sentència que'l senyor duch li donà e fo posat en les forques de Montjuich”. ACA MR 1547, f. 101r.
- 211 ACA MR 1528, f. 231v.
- 212 Flocel Sabaté, *Lo senyor rei és mort! Actitud i cerimònies dels municipis catalans baix-medievals davant la mort del monarca*, Edicions de la Universitat de Lleida, Lleida, 1994, p. 17.
- 213 Josep Roca, “La Reyna Empordanesa”, *Sobiranes de Catalunya*, Real Academia de Buenas Letras de Barcelona, Barcelona, 1928, p. 143.
- 214 “Crònica del racional”, p. 158.

10 The application of the death penalty

The ceremony of execution

“Death penalty, that is, if it is a lesser noble or an honourable citizen, let him be decapitated and if he is other, let him be hung”.¹ This Barcelonan legal definition illustrates a difference respected throughout the country: decapitation for a baron or a noble and the gallows for the non-privileged. The usual fate for those condemned to die was one of two options: “To be hung or lose the head”.² This was coherent with wider medieval society. All over Europe, the baron hanging from the gallows, despite having been accused of behaving like a robber-knight, appeared in feudal narratives as an ignominious insult that led to a lawsuit by his relatives and friends.³ In the same sense, shortly before 1190, the troubadour Guillem de Berguedà portrayed the tension between King Alfonso of Aragon and the viscount of Cardona, saying that the former should bury the latter alive or hang him with a rope—“If not bury the viscount alive or not hang him with a rope”—,⁴ thus showing contempt for the viscount by wishing he would die in a way unbecoming to his noble status.

Figure 10.1 Instruments for decapitation that accompanied the news that the knight Joan Sort “had his head removed from his shoulders” (*fonch levat lo cap de les spatles*) in 1465 (BC ms, 978, fol. 110v)

The law placed the upper level of the urban elite on a par with the barons.⁵ This was what Barcelona city council was calling for in the fifteenth century.⁶ In this context, the range was usually wider, with the high bourgeoisie avoiding the gallows, which were replaced with strangulation⁷ or drowning,⁸ as seen in the second half of the fifteenth century in the context of the civil war⁹ and which was similar to cities like Lyon.¹⁰ In fact, the tense situation in Barcelona during the civil war between 1462 and 1472 provides numerous cases where a member of the urban elite ended his days condemned to die by strangulation: “fonch scanyat”.¹¹ More unusually, a wooden garrotte—*un garrot de fust*—was applied like a tourniquet round the neck. This

was the fate of a notary from Lleida in 1486 found guilty of the common offence of theft.¹²

Finally, in the infrequent case of the execution of clergy, this was usually by drowning, generally in water: “You will drown him in water”.¹³ This practice could be changed for strangulation, especially if the accused was of high status. This was the case in 1472, of a sentence by the royal council (really the council of the lieutenant of one of the two kings in dispute during the civil war) against Father Joan Ferrer, a canon of the canonry of Santa Anna, from the Order of the Holy Sepulchre of Jerusalem.¹⁴

This general order of punishment was altered when the sentence itself defined how it had to be carried out with the aim of setting an example. Thus, strangulation could also be applied to people of lower classes, even slaves. However, in these cases, this was usually preceded by other punishments, such as dragging and amputations.¹⁵ A person of lower rank could also be decapitated, but with the intention of displaying the head afterwards, generally at the scene of the crime.¹⁶

However, one's personal status was reflected in the capital punishment. This was shown in cases where, having committed crimes and been arrested together, people were also executed at the same time, but by different methods. This happened in Barcelona in 1354, when, after a murder, one of the culprits was decapitated and the other, hung: “Felip Sagoda of Tarragona was decapitated and Ramon Desto of Barcelona hung because they had killed Bernat de Prats with a blow with a skewer”.¹⁷ Similarly, in 1366, Bernat de Torres and his squire, Pere d'Abella, were condemned to death for having murdered Jaume Vilella and his squire in Barcelona in ongoing feuds between factions on Minorca (with branches on Ibiza). The knight was decapitated and his assistant hung:

Die martis vicesima quinta die mensis augusti, anno a nativitate Domini M^o CCC^o sexagesimo sexto, fuit decapitatus in civitate Barchinone in platea vocata de Olleo venerabilis Bernardus de Turibus, miles qui fuerat de Minorica; et suspensus, ante porticum de Marii Barchinone, Petrus de Apilia, scutifer dicti Bernardi propter mortem que perpetrata fuerat in personam Iacobi Villela de Minorica et cuiusdam escutiferii sui in dicta platea de Olleo, in mense julii proxime lapso.¹⁸

More ostensibly, in 1381, Ramon de Montsonís and his seven supporters were executed at the Gate of the Sea (*Portal del Mar*) in Barcelona. They were all executed in the same place, but while the first lost his head, his supporters were hung:

Dei mercuri, vicessima quinta die septembris, anno proxime dicto fuit decapitatus, ante porticum Maris Barchinone, Raymundus Monçonis,

domicellus, et fuerunt suspensi in furquis, que sunt ante dictam porcioni, septem homines qui fuerunt capti una cum dicto Raymundo.¹⁹

In any case, punishment was public, with the belief that this would punish the victim and teach the population: “As a punishment for her and an example for those who try to do similar things”.²⁰ The punishment therefore had to be hard and humiliating, as a clear warning about where the path of evil led. In 1392, the sentence for a rapist of young children in Tortosa was explicitly aimed to instil terror in others who want to try similar things (“Do terror to others who want to try similar things”).²¹ Indeed, the application of the sentence in the streets was preceded by a town crier (*cridador*), who announced the execution as a call for justice: “he did the call for the justice”.²² This was the same person who usually made all kinds of public announcements in the town. The aim was not only to publicise the event but also, consequently, to incite the gathering and frenetic participation of the population in favour of the application of justice.

To carry out the sentence, the figure of the executioner was essential—“botxinus sive morredevaques”.²³ This person was in charge of applying all physical punishment, whether capital or corporal: “Executioner to do the justices”.²⁴ In major judicial courts, his was a stable job, a kind of personal role that was renewed. In the capital of Roussillon, this was inscribed in “the prison guard of the town of Perpignan”,²⁵ from where he acted in the various royal jurisdictional courts in the town, and, when required, even collaborating in torture and travelling to apply justice around the region, because his mission was to do justice and the work that an executioner usually did under the orders of the royal officers: “He had to do the justices that were ordered by Royal officials and all the other things that executioners had to do”.²⁶ There was no fixed salary and emoluments were calculated according to the jobs carried out.²⁷ From the 1370s, the king designated people for these posts in places with notable activity and specific importance, like Barcelona. Not until well into the fifteenth century did they begin to be employed by the municipalities in large places like Barcelona. There, the local government decided the number of people employed in the trade and in 1467, defined the salary—a “taxation of 24 pounds which were charged for said executioners for supporting their lives”,²⁸ travelling around the towns in the city’s area of influence.²⁹

Hanging, the common punishment, revolved around an elementary principal, to hang by the neck until the individual was asphyxiated: “that he be hanged by the neck until dead”.³⁰ This expression, by way of instruction, was repeated in many sentences: “be hung by the neck so that he dies”,³¹ that is, “hung in such a way as to die”.³² The

gallows were used for this, the prisoner arriving with a fixed retinue, made up of sergeants and representatives of the jurisdiction. In Barcelona, it was normally led by the *capdeguaia* or “head of the guard”,³³ and in most other main districts, such as Tortosa, this was usually done by the subvicar (*sotsveguer*). However, other high officials of the jurisdictional court could fulfil the same role. In Roussillon, the subvicar was very often replaced in this procession by the procurator fiscal,³⁴ which was justified by the legal importance of the latter. Occasionally, in Roussillon, he could be replaced by a simple sergeant who, to display greater authority, rode on a horse—*I rossí*³⁵—, hired by the jurisdictional court. In the second half of the fourteenth century, this usually cost 4 shillings.³⁶ The prisoner generally travelled from the prison to the gallows on a lesser animal, usually a mule,³⁷ also paid for by the court³⁸ except in places with strong municipal participation, where this was paid for by the local treasury.³⁹ The cost varied with the distance, but usually ranged between half a shilling in the first half of the fourteenth century and a full shilling in the second.

Everywhere, the journey from the prison to the place of execution was accompanied by a degrading uproar among the populace. This was often encouraged by the court, with sergeants shouting and recounting the crime. Often, musicians with their trumpets called the people out—“the trumpeters who trumpeted around the town the day that there was a hanging a man called Segarra” was mentioned in a specific case in 1337 in Cervera⁴⁰—as a way of creating a real festival of reprimand against he who had to be extirpated from society for his bad life. To encourage this exemplary role, the display of the prisoner during his transfer was sometimes accentuated. To emphasise his humiliation, he could be forced to travel with a hangman’s rope or some other similar object round his neck—“that we wear round his neck”⁴¹—, an unusual practice reserved for serious events and moments. An example is a thief punished for stealing grain in Barcelona at a time of serious penury during the shortages of 1376.

In cases considered serious, the prisoner could be ordered to travel in a *castell de fust* literally a “wooden castle”, a cart fitted with a vertical pole to which the prisoner was tied, more open to the view and insults of the population. This practice was found all over Catalonia, although it was not that common despite coinciding with traditional practice in neighbouring countries.⁴² The identification between the cart and scaffold is mentioned in Chrétien de Troyes, who adapted the reference to the Arthurian cycle in a well-known work, *Le Chevalier à la Charrete*:

In those times, the carts filled the role that now is done by the scaffolds, and in any good town where there are now many carts, then

there was only one. And that was for common use, as now with the scaffold, for the murderers and the traitors, for those condemned by the justice, and for the thieves who took the belongings of others with tricks or who snatched these from them by force on the tracks. Whoever was caught “in fraganti” was placed on the cart and taken round the streets. This way, they were left without honour and they were not even listened to in the court nor were they honoured or greeted. That is why, the carts of that time were so cruel, that it was then said for the first time that “When you see a cart and it crosses your path, cross yourself and remember God, so that nothing bad happens to you”.⁴³

The same work describes the attitude of the population to the passing of the cart. The people were not inclined to console the prisoner, but rather, despite not knowing the accusations against him, they insulted and derided him. In this case, this was accentuated by the surprise of seeing a dwarf driving the cart carrying the knight:

The people were excited to see a knight who went on the cart. But they did not console him but jeered him, the old and the young, boys and old men, with a lot of shouting through the streets. The knight heard said of him many insults and many infamies and laughing. Everyone asked: ‘What torment will be applied to the knight? Will he be skinned, hung, drowned or burnt on a pyre of buckthorn? Tell us, dwarf, tell us you, who are carrying him, what crime was he arrested for? Is he guilty of theft? Is he a murderer, or has he been condemned in a lawsuit?’⁴⁴

In 1385, the governor of the counties of Roussillon and Cerdanya in Perpignan hoped to achieve a similar effect by ordering two prisoners to be sent in a cart, tied to a pole—“One post on which said men were on the cart while they were being taken to the gallows”—which meant spending 1 shilling for the pole and 4 more to hire the cart.⁴⁵

When the sentence ordered the prisoner to be dragged—*rossegat*—the route to the gallows through the streets was through the jeers and blows of the people on a prisoner who was dragged while tied to a post with a rope—“a post that is for dragging”⁴⁶—or a basket—“a basket in which he was dragged”⁴⁷—, always drawn by a beast of burden: “One mule which dragged him”.⁴⁸ In many cases, especially those considered serious, the legislation and the sentences specified that the basket had to be tied to an animal’s tail, as stated in many places in the Pyrenean mountains⁴⁹ or in a city like Lleida,⁵⁰ or as recalled by a witness to an execution in Llançà, on the Mediterranean coast.⁵¹ We can wonder about the symbolism of contempt and that causing discomfort to the animal would increase the debasement of the prisoner.

The animal, together with the cost of the ropes and the post or

basket, was usually hired and paid for by the ordinary court. This was only paid by the municipal governments in the western cities which participated more fully in the justice. An example is Tortosa in 1376, when the local government had to hire four animals to punish Martí de Castro, accused of having kidnapped and sold a Sardinian captive. These four were one for the subvicar (*sotsveguer*), another for his squire, a third for the material that would be needed at the gallows and the fourth to drag the accused: “Hire of 4 beasts, one of which the subvicar rode on and the other that I squire rode and I on which the ladder was carried to the gallows of Vallserra and the other beast with which said Martí de Castro was paraded”.⁵² Naturally, panniers and the noose and ropes (*sàrria e dogal e cordes*) had to be provided. Finally, the local treasury paid out for everything—*per tot*—11 shillings and 8 pennies.⁵³ Differences in the equipment used were mainly due to traditions. In Lleida and Tortosa they were dragged in panniers (*sarrià*) or baskets (*sarrió*), while in Barcelona and the counties of Roussillon and Cerdanya, a pole was preferred: “One post on which he will be dragged”.⁵⁴ These usually cost between 1 and a half and 2 shillings in the fourteenth⁵⁵ and fifteenth centuries.⁵⁶

Less widely used was the torment based on rolling (*rodar*) the prisoner, although this had traditional roots in courts such as Cervera. If the tribunal ordered this treatment before the execution, the accused had to be well tied with the ropes (*cordes per rodar*) that cost 21 pennies in Cervera in 1337,⁵⁷ to a large basket, all together, a rope and a basket to roll the accused in: “a rope and a basket in which said man was rolled”.⁵⁸ In all cases, the ropes were new, but if the basket was still in a good enough state, it was reused. The most usual practice was to roll the accused through the streets just before the hanging: “They rolled one man from Tàrrega who was then hung” in Cervera in 1333.⁵⁹ However, in the same place, in 1337 a day was left between the first and second torments, which allowed two public gatherings on the streets.⁶⁰

This route through the streets served many purposes. Firstly, it involved the population in the application of the punishment. Some sentences explicitly ordered that the sergeants had to encourage popular participation by proclaiming the seriousness of the crime committed.⁶¹ The participation of the people shouting and insulting the culprit with and reproaches and physical abuse, showed that the condemnation was not arbitrarily decided by the holder of the jurisdiction but was indeed shared by the population. While the judicial sentence applied a harsh punishment, but in line with the objectivity of the law, the people had to express their anger against the person who had broken the order and also for having committed a sin against God which could provoke divine wrath. Understandably,

the population had to show that they were angry with the condemned, so he was mistreated in the streets but reached the gallows alive. In some specific cases, to emphasise the seriousness of the offence, it was envisaged that the accused should die in the street from the abuse by the people. As we have seen, in Tortosa the legislation against the use of poisoned arrows and against sexual relations between a Jewish or a Muslim man and a Christian woman called for the accused to be dragged through the streets until he died.⁶²

The task of dragging the condemned had to be led by the sergeants, usually two of them. The municipal government of Cervera, showing its capacity to intervene in the judicial procedures, usually paid them with a drink—“beure”⁶³—, the usual way of recovering energy between meals, which, judging by the low cost, a shilling on each occasion, was rather light.⁶⁴ These drinks were usually offered to the two sergeants in charge of the execution, even when no prior torture had been carried out in the streets.

When the sentence involved amputations, these were done in the usual way. The most common was the loss of a hand, which was done by the executioner with a blow as fast and precise as possible with an axe. This was usually done on the way to the gallows, and encouraged the people to insult the prisoner. For example, in 1395 in Barcelona a person accused of murder, aggravated by the use of poison, had both hands cut off in the street before reaching the gallows, first one, and after walking further along the street, the other:

One young man born in Barcelona aged twenty-five was sentenced to hang being guilty of having given with others poisons to a son of Solà, who was a merchant in Barcelona, from which he died. Both his hands were cut off, the first in front of the Saint Michael spring and before a cul-de-sac that is there, and the other hand in the Wheat Square (*Plaça del Blat*), and after which he was hung on the gallows near El Carbó.⁶⁵

Only in Roussillon and Cerdanya was the amputee immediately, habitually and permanently helped with a hen, inside which the newly cut stump was placed. It was the best way to try to staunch the bleeding.⁶⁶ So, the jurisdictional court, as indicated in 1369, paid 2 shillings for the hen: “One hen in which they put the severed hand of Agustí de Calsà, from whom it was cut and who was hung by the neck”.⁶⁷ This was the usual practice with all amputations, even when not followed by the death penalty.⁶⁸

On occasions, multiple punishments were combined. On the 10th of October 1357, in Barcelona, the prisoner Allí was dragged on a post, tormented with pliers and his hands amputated before being hung. The entry in the accounts states the need to acquire the post, and that an axe and hammer that had to be taken, as well as the ropes, the salary of the assistant and the hiring of two animals, one to drag the

culprit and another to carry the material:

It is stated below that on the 10th of the month of October of the above mentioned year it was spent in the justice of one captive called Allí, who was dragged and pulled with pliers and had his hands cut off and was hung. Firstly, to the crier who made the cry of justice, one shilling; item cost of one post on which he was dragged, two shillings; item cost of ropes with which he was dragged and hung, one shilling; item cost of the mule that dragged him, two shillings; item cost of one man and one ass that carried the ladder with which he was hung taken to the porch, two shillings; item cost of taking axe and the hammer, one shilling.⁶⁹

While many thieves were punished by having their ears cut off, there was a tendency for prisoners to be punished where they had offended. Thus, amputating the hands of thieves and those who had used physical violence at the wrist was justified. Even more directly, in some rape cases, especially when someone from a low social position raped a minor, death came after the amputation of the member with which the crime had been committed. So, in Lleida in 1380 the convert, Joan Guerau, accused of raping a three-year old girl, was sentenced to have his penis cut off and to go round the streets with his severed member round his neck until he reached the place where he was hung:⁷⁰ “his member cut off in Chicken Square (*Plaça dels Polls*), and with the severed member round his neck, he went round the city and that after he be hung by his neck”.⁷¹

More frequently, some prisoners condemned to death could be previously physically punished for blasphemy, habitually by having their tongue perforated with an iron: “I iron shaft in the tongue”.⁷² In these cases, the jurisdictional court acquired the iron for a shilling, and it was applied by the executioner, with the help of the sergeants, with the prisoner’s hands tied behind his back. The accused was placed on the animal in this posture and then hung, all the time with his perforated tongue on display, as the instrument protruded from the mouth and stopped it from closing. To make an approximate calculation of the size of the metal piece, you must bear in mind that it normally cost 1 shilling, that is, 12 pence, when at that time, a pound of metal nails cost about 8 pence, while square nails—*cairats*—were sold for 9 each.⁷³ So, if the nail pushed through the tongue cost more than the normal ones, it must have been bigger.

Other sentences for blasphemy meant the loss of the whole tongue. In 1369, to emphasise the seriousness of this crime, general governor Prince John sentenced that the tongue of an accused not only had to be cut out but also burnt at his feet. However, the jurisdictional court’s lack of suitable instruments and their consequent need to hire a sharp knife (*raor*), as well as a hook and the necessary firewood,

showed how unusual this punishment was. In this specific case, one could understand that the amputation for blasphemy was carried out immediately after hanging, which would highlight the symbolism inherent in burning the tongue at the prisoner's feet:

On the 26 of the mentioned month of June, between one hangman's rope and one hook the hire of the razor and firewood needed to hang and cut the tongue and burn the said tongue of Pere Antich from the place of Alella, who was sentenced by the lord duke who was then in Barcelona to be hung in the porch and to have the tongue cut and burnt at the foot of the gallows and that as he had sworn and said ugly words about God and the Virgin Mary, all cost 2 shillings 3 pence.⁷⁴

Fire was also used to destroy the material a prisoner had used to commit his crime, as was normal with counterfeiters. So, in Barcelona in 1357, in the ledger entry for the execution of a counterfeiter, as well as the customary dragging and hanging, there was also the cost of taking the instruments used for minting and founding⁷⁵ and the firewood to burn these, with the symbology of applying fire to the previously unused material:

Make justice of one counterfeiter who was dragged and a basket in which he was dragged cost 18 pennies. Item cost of one noose with which he was hung, 8 pence. Item cost of a bundle of firewood to burn a box with the tools of said counterfeiter, 3 shillings. Item cost of hiring the mule to drag him, 2 shillings. Item one hangman's rope, 5 pence. Item canes 2 shillings. Item the crucible in which the lead was melted, 1 shilling. Item the labourer who carried the toolbox 4 pence.⁷⁶

When the offender reached the place of execution, accompanied by the corresponding uproar and very often by the music of the trumpeters (*trompadors*), the sentence was read aloud, as were important proclamations, also announced with musical instruments.⁷⁷ The town crier read the death sentence. Later, the ordinary court, or the municipal one in places with strong municipal control, paid these people, generally one shilling for the town crier and another for the musicians.⁷⁸ In large places, such as Barcelona or Perpignan, the musician—"he who plays the trumpet",⁷⁹ that is, the "trumpet of said court"—, often fulfilled both functions, and this was a permanent post given the growing number of executions.⁸⁰ Thus, on the 26th of June 1369, in the court in Barcelona, "gave Pere Bagà for playing the trumpet and for crying the said sentence, 1 shilling".⁸¹ The standard payment was one shilling per proclamation.⁸² The jurisdictional court only paid for one proclamation. The first call announcing that an execution was to be held was sometimes municipal, leaving the proclamation with the reading of the sentence to the jurisdictional

court. It was more usual for these to be combined in the first pronouncement, announcing that “justicies” would be done.⁸³

After the proclamation of the sentence, the prisoner would be placed on the gallows. In the fifteenth century, especially in large places like Barcelona, religious confession at that point became another ingredient of the punitive liturgy. The contemporary concern for a good death,⁸⁴ the consolidated function of the final confession⁸⁵ and the preoccupation for redemption that religion had taken on,⁸⁶ explain why after reaching the place of execution, the prisoner’s confession was heard and he received absolution. Coincidentally, in 1397 Jean Gerson, returning to his concern for penitence,⁸⁷ asked Charles VI for prisoners to have an obligatory confession before losing their lives, a petition which was immediately accepted in France.⁸⁸ As Adriano Prosperi emphasises, confession was an indicator of the intersection between crime and sin and, with that, a sometimes tense interference between the civil and ecclesiastical spheres, because this was where the real and definitive confession of how the events being punished had happened would be heard.⁸⁹ Later, in the sixteenth century, the presence of objects of Christian devotion was mentioned, as in Llançà in 1541 in an account by a witness about what had happened some time before: “and he remembered how he saw them carrying the Crucifix in his hand with the rope in the neck while they were brought to be hang”.⁹⁰ After confessing, the prisoner had to be hung, for which a ladder for him to climb was required. There were thus three initial steps before the end: reaching the place, confessing and climbing the ladder. This was described for a sentence in Barcelona in 1451: “he went to the Rambla, place designated to be hung and there was confessed and taken up the ladder”.⁹¹

Figure 10.2 Drawing depicting an execution, with the ladder next to the gallows and attempting to capture the prisoner’s final movements, on the margin of a register of announcements in Barcelona beside the ordinance that imposed the death penalty on anyone who stole grain. 1373 (AHCB ABVB X-2, f. 71v)

In Roussillon and Cerdanya, a standard model of gallows had a fixed wooden ladder with ten rungs.⁹² Through exposure to the elements, these often deteriorated. On occasions, they were in such a bad state and that they had to be repaired quickly. This is what happened in Perpignan in 1361, when the rotten part of the ladder was tied up with ropes: “Ropes that we need to tie the ladder to the gallows because it was rotten”.⁹³ Other times, for safety, the existing ladder had to be dispensed with and a portable one brought. This was the case in 1389 during the execution of the murderer, Pere Mir, when two ladders were brought because the existing one was rotten—“two

ladders to the gallows to make said Pere Mir go up who was condemned to death and as the ladder for the gallows was broken said two ladders were brought”—reinforced with a tool brought to hold them (“hold up said ladders”⁹⁴). Consequently, the rungs were repaired by a carpenter, who often needed a rope to raise and hold the ladder, as in Perpignan in 1380.⁹⁵ Sometimes this work had to be very extensive, as in 1378 in Puigcerdà, when the carpenter was paid 3 shillings and 4 pence to make the rungs for the ladder of the gallows —“per fer escalons a la escala de les forques”—, as well as 1 shilling and 8 pence for twenty nails, two for each of the ten steps: “20 nails which are bought to nail the said 10 steps”.⁹⁶

The repetition of these problems in Perpignan explains why, at the beginning of the fifteenth century, 3 additional shillings were occasionally given to the hangman for bringing the ladder: “al botxí per portar la scala per penjar”.⁹⁷ In fact, in the other territories in the south of the counties of Roussillon and Cerdanya, the ladder had to be brought on each occasion.⁹⁸ All the medium and large courts had their own ladder, which was repaired or changed. A new one was bought in Barcelona in 1358: “a ladder that was bought new needed by the court”.⁹⁹ Whenever it was used, someone had to be paid to take it to the gallows. In Cervera in 1333, the rate for this was 1 shilling to take, “the ladder to the gallows to hang said man”.¹⁰⁰ This was done by unskilled personnel such as a loader (*bastaix*), each was usually paid between half a shilling¹⁰¹ and, more frequently, 1 shilling, a rate that increased very little over the century. In 1369, in Barcelona 1 shilling was what was paid to take the ladder to where the execution had to take place—“the ladder to take to said place where he was hung”.¹⁰² However, as stated on another occasion the same year, it had to be taken and returned: “it cost to take the ladder and other items from the court of the vicar to said Porch and to return them to said court”.¹⁰³ When an animal was used to carry the ladder—“one man and one ass that brought the ladder with which he was hung”¹⁰⁴—, the cost could double to about 2 shillings. Distance and tradition contributed to the use of animals, as in Tortosa when, in 1376, they required an animal to carry a ladder to repair the gallows: “on which the ladder was taken to the gallows of Vallsera”.¹⁰⁵

The spread of stone gallows meant there were two fixed vertical supports, the upper bar being made of wood. This logically implied deterioration, so that in places like Cervera, from the mid-fourteenth century on, both the ladder and a beam were usually taken to the scaffold, which was fixed. Thus, in 1383, for the execution of a slave, the town paid 4 shillings to take a ladder and a beam to the gibbet, although only the first item was returned:

we gave to pay our municipal accountant Guillem Desvall from the

place of Montlleó for taking a beam and a ladder to the gallows and returning the ladder from the gallows to the town when they hung the said slave Mestre.¹⁰⁶

These beams cost the municipal treasury about 2 and a half shillings, as in another case, also in Cervera: “to Bernat of Àger, teasaler, for a beam that the councillors had put on the gallows when they hung the young boy from Fillol, beam being from the said Bernat of Àger”.¹⁰⁷ This expenditure were paid by the local government as befitted the control over the exercise of justice assumed by the western municipalities.

Figure 10.3 Drawing depicting a newly hung man, still with the ladder next to the gallows, on the margin of a register of announcements in Barcelona beside the ordinance that imposed the death penalty on anyone who attacked another’s home. 1372 (AHCB ABVB X-2, f. 24v)

Once the convict was at the head of the ladder, the hangman’s rope—*dogal*, *soga* or more usually *ligam*—was put round his or her neck and the other end was firmly tied to the horizontal bar. With this knot tightened¹⁰⁸ the prisoner was thrown of the ladder by the hangman so that he or she choked to death hanging from the noose—“the nooses with which they were hang”¹⁰⁹—by the neck: “he was hung by the neck”.¹¹⁰ A new rope, almost always made of hemp—“A hemp rope”¹¹¹—, had to be used on each occasion. These cost 11 pence in the first third of the fourteenth century, the cost rising to 3 shillings in the last quarter of the century.¹¹² The victims had their hands tied behind their backs—“they tied his hands”¹¹³—with another thinner rope—“the thin rope on the hands”,¹¹⁴ “the thin rope for the hands”¹¹⁵—, which was defined on occasions as a braid—*trunyella*—or explicitly a braid for tying: *trunyella per lligar*.¹¹⁶ Differentiating thus between the noose and braid—*ligam e trunyella*—or between a noose and thin ropes—“one noose and thin ropes”—,¹¹⁷ there were always two ropes of different thickness and texture,¹¹⁸ that is, one noose and ropes for tying the hands—*I ligam e cordes a ligar les mans*¹¹⁹—or, more clearly, a hangman’s rope and thin rope for tying the hands of the person who was hung: *I dogal e corda prima a obs de les mans ab que fo pendut*.¹²⁰ As detailed in Perpignan, the combination of both ropes was not complicated, one for the neck and the other thinner one for tying the hands behind the back—“one around the neck and the other on the back”¹²¹—that is: “one around the neck and the other down the back with thin rope or tie the hands”.¹²² Together they cost about 9 pennies in the first half of the fourteenth century and 12 from mid-century, rising fast towards the end of the century, to between 3 and 3 and a half shillings,¹²³ then increasing to 4 and a half¹²⁴ or even

5 and a half.¹²⁵ When a woman was executed,¹²⁶ another rope had to be acquired to tie their skirts to their legs, to keep them well closed (see Figure 10.4).¹²⁷ This is what the subvicar of Barcelona described in 1370 in the accounts corresponding to the execution for blasphemy of a prostitute who had been in prison for 163 days:

On 22nd of the month of March hung by a trial of eminent citizens, Borda, female sinner found guilty of having sworn in an ugly way about God and said words about God and the Virgin Saint Mary that should not be repeated. Cost of one noose and ropes to ties the hands and the skirts around the feet, 1 shilling, 4 pence.¹²⁸

The prisoner needed no more care. Only very rarely did some have their heads completely shaved before being hung. This was the case on the 8th of April 1399 in Perpignan where a barber—“Jaume Savina, barber for his salary for shaving”¹²⁹ was paid for shaving two prisoners who were later hung: “who were in jail in the court accused of various and enormous crimes for which they were later hung”.¹³⁰ He received 1 shilling for each: *per cascun I sou*.¹³¹ The measure was usually aimed at countering claims by the accused to be tonsured clergy and therefore to be subject to ecclesiastical jurisdiction.¹³² Then, when their appeal had been rejected, shaving their heads was a way to eliminate the physical traces behind these claims. In 1449, in Barcelona: “was hung, with head shaved because he alleged adulterine tonsure, on the gallows in the Rambla”.¹³³

Figure 10.4 Depiction of a women martyr hung, with her skirts tied. Museum of Complesso Monumentale di Santa Chiara. Bas-relief attributed to followers of G. and P. Bertini, first half of the fourteenth century, fragment of the former main pulpit in Saint Claire church (Santa Chiara) in Naples

Certain features of the jurisdictional courts in Roussillon and Cerdanya regarding convicts and hangmen differed from the rest of Catalonia. In these northern areas, the former were always executed with their heads covered by a special hood—*I capell*¹³⁴ occasionally called a *coffa*,¹³⁵ which generally covered the face and was supplied by the court. They always reached the place of execution dressed in simple pants and shirt, which were only their own in certain specific cases.¹³⁶ Formally, the court supplied pants and a shirt when the prisoner did not have them—“as said man did not bring pants nor shirt”¹³⁷—or, as mentioned in 1374 when condemning Pere Cantan to death: “I shirt and pants needed for the said Pere because he did not wear it and a hood”.¹³⁸ In practice, only in 4.5% of the executions in the counties did the court not provide the pants and shirts, notable among which were those involving Jews. Indeed, in the vast majority of cases, the court was responsible for acquiring the shirts, pants and

hoods needed for the hangings: “shirts, pants and hood for the called hung people”.¹³⁹ So, before each execution, the cloth to make the corresponding clothing quickly¹⁴⁰—“shirt, pants and hood”¹⁴¹—had to be acquired. In 1372, the 6 and a half shillings that the vicar’s court had paid was justified as: “had linen cloth bought to make a shirt and pants and hood needed for said Tomeu Mir with which said Tomeu Mir was hung”.¹⁴² This measure was justified formally because those condemned to death forfeited their assets, which is why the jurisdictional court covered all their last needs, including clothing. In any case, presenting this as a necessity because the prisoner could not pay confirmed the common perception of the low social status of those who were sent to the gallows.

The other peculiarity of the counties of Roussillon and Cerdanya was that the court had to supply the executioner with new gloves.¹⁴³ These meant an expense of around 10 or 12¹⁴⁴ pence, rising in the mid-fifteenth century to around 1 and a half shillings:¹⁴⁵ “the gloves needed by the executioner”¹⁴⁶ that is, “for executioner’s gloves to carry out justice”.¹⁴⁷ These were simple, throwaway gloves that were also used for any other corporal punishment, such as the common cutting off of ears,¹⁴⁸ although not a capital sentence, and were intended to avoid the executioner touching the accused with his hands.¹⁴⁹ This was a measure of moral and social hygiene. It was considered that if the person who applied the punishment touched the condemned, he would be contaminated. This idea arose at the same time for several marginal groups for different reasons.¹⁵⁰ In fact, what Jews, prostitutes and, in some places, executioners,¹⁵¹ had in common was that they were banned by municipal ordinances from touching with their bare hands the products that they had to acquire in the market.¹⁵² These prohibitions were adopted permanently in the area of Perpignan, although the use of gloves meant executioners did not have to endure these extremes of discrimination. On occasions, when more than one prisoner was executed, the executioner received two pairs of gloves—*II parels de gans*, one for each execution.¹⁵³ However, when the punishments were applied simultaneously and on the same gallows, a single pair of gloves was enough, because after contact with the condemned, they could be thrown away without touching anything else.¹⁵⁴ There was this specific provision in the northern courts that each execution required the provision of “ropes, shirt, pants, hood, gloves and other things which the court needs”.¹⁵⁵

The place where capital punishment was applied was not chosen at random. Alleging incompatibility with bloodletting, the Church did not wish executions near its installations. It was above all a question of moral hygiene, because executions were part of uncleanness. The influential Francesc Eiximenis offered the same impression when

imagining the ideal city with the cathedral in the centre, presiding over a big square with no place for any dirty or dishonourable item, such as the gallows or pillory: “There is no place for dishonourable leisure, nor for exhibition of things to sell nor for doing any dirty item; and gallows and pillories cannot be here and nobody can be here punished or sentenced”.¹⁵⁶ It made sense that in the exchange between the bishop of Vic and James II in 1315, which transferred the half of the city that had until then belonged to the bishop to the king, the sovereign had to accept that a square used for the recreation of the clergy had to be kept free of such improper activities as trading or executions, as it was:

*plateam clericorum que dicitur platea beate Marie cum sit ad usum et recreatio clericorum hactenus deputatam et ibi fuerit anterium et antiquita quod non possit teneri vel fieri forum vel nundine nec possint poni res ad vendendi nisi prout usque nunc extitit observatum nec possint ibi judicialia crimina vel sanguinis exerceri.*¹⁵⁷

The position as the capital of the region also required indicators, such as the application of capital punishment. The city of Tortosa, concerned about being the capital of its enormous municipal area,¹⁵⁸ explicitly legislated that corporal punishment could only be applied in the city itself, and nowhere else in its limits: “in no place within the limits of Tortosa, corporal justice must not be done, except in the city of Tortosa”.¹⁵⁹ Then, not only the gallows but also the executions themselves became part of the jurisdictional dispute, because the attempts by the order of Knights Hospitaller to gain full domain in the preceptory of Ulldescon¹⁶⁰ clashed with the claims by Tortosa council, which included the preceptory under the city’s gallows,¹⁶¹ and intervened in the exercise of justice¹⁶² The council then went on to reclaim delinquents who were interpreted to belong to the royal jurisdiction covered by the city.¹⁶³

As explained in previous chapters, the gallows indicated the holders of the jurisdiction, which is why they became the centre of jurisdictional discussions. Sometimes these differences revived where the gallows were used in areas under dispute. This kind of conflict could arise when those who wanted to use the gibbet were not the same who had built them, as in the conflict in 1318 between the two jurisdictions the city of Vic was divided between.¹⁶⁴

The importance of the death penalty also had its place in divergences about the capital within a sole jurisdiction. In Roussillon and Cerdanya, Perpignan was the economic and institutional capital of both counties, which included three vicariate districts presided over by their respective capitals, namely Perpignan, Vilafranca de Conflent and Puigcerdà. The combination of the two latter towns as their own local capitals with the higher regional capital of Perpignan implied a

pyramidal geographic structure but there was some mistrust among the towns about the places of execution.¹⁶⁵ The appeal to the governor or him taking some cases involved the transfer of the trials and prisoners themselves to Perpignan,¹⁶⁶ which provoked distrust in the vicarage of Cerdanya and especially among the local authorities of its capital, Puigcerdà. Half of the accused in the cases sent to the county capital with the result of the death penalty were taken back to be executed in their area of origin, with the corresponding cost of the journeys that the vicar's courts had to pay. In 1375, after appealing to the governor, a person accused of rustling sheep who was arrested in Bellver, capital of the subvicarage of Baridà, on the western edge of the vicarage of Cerdanya, was taken to Perpignan, where his death penalty was confirmed. He was then returned to his vicarage, in Puigcerdà, to be executed, accompanied by the procurator fiscal and four sergeants from the vicar's court of Roussillon.¹⁶⁷ Concentrating executions in a town became a sign of a regional capital, which promoted disputes at different levels. The local government of Puigcerdà, invoking its status as the capital of the vicarage of Cerdanya, argued with the higher capital of Perpignan over the extradition of trials and prisoners to this higher place. However, at the same time, the same council of Puigcerdà backed the vicar of Cerdanya, based in Puigcerdà, bringing delinquents arrested in the vicarage of Ribes, situated inside the county of Cerdanya¹⁶⁸ to stress the link that highlighted the connection between this valley and Puigcerdà in the different aspects of institutional and social relations.¹⁶⁹

In the vicariate of Roussillon, it was usual to transfer those condemned to death to the capital.¹⁷⁰ Pere Mir had committed murder in Bages and was taken from there to the capital, Perpignan, where he was tortured, tried and executed in 1389.¹⁷¹ These transfers sometimes had underlying jurisdictional importance. For example, in 1399, a vagabond was taken from the episcopal city of Elna to the royal town of Perpignan by order of the governor and with the displacement of the procurator fiscal, a sergeant and a servant.¹⁷² In other cases, the same aim to highlight the pre-eminence of the royal officers counselled that their punitive power be shown in the same places of the district. This meant sending the representatives of the jurisdiction there with the executioner and all the material needed for the execution, beginning with the rope (*ligam*) for the victim's neck and the gloves (*los gans*) for the executioner's hands.¹⁷³ Thus, in 1360 the procurator fiscal and his assistants ("los misagés de la cort")¹⁷⁴ accompanied a person condemned to death on a two-day journey to Estagell, on the northernmost edge of the district ("for two days that he went to accompany Macafust to Estagell, where he was hung"),¹⁷⁵

assuming the cost of the hiring an animal for the accused to ride on, given the distance to be covered: “hire of the animal on which Macafust rode until he was hung in Estagell”.¹⁷⁶ Similarly, in 1399 the vicar ordered the transfer to Pià of two prisoners condemned to death who had to be hung from an olive tree there: “had been hung in the limits of the Pià in an olive grove”.¹⁷⁷ The infrastructure of the gallows including the ladder had to be moved with the costs covered by the bailiff of Perpignan, as was normal when one of the prisoners was from the town.

Many of these transfers were justified by the desire to take prisoners closer to their places of origin and the scene of the crime. In Barcelona, in 1358, when some prisoners were executed in the parish of Sant Andreu de Palomar, it was stated explicitly that they were from this place: “fuerunt suspensi in villa Sancti Andree de Palomario Periconus Carnisterii et duo alii de dicto loco”.¹⁷⁸ Not only was it considered exemplary that the sentence be applied where the condemned was known, but also, and more importantly, that it should be carried out where the crime had been committed in a kind of moral reparation. The aim was fixed in the sentences, as specified by Prince John in 1377, when sentencing the murderer of a priest (“I capellà”) in Barcelona, to be hung exactly where he had committed the crime: “who was hung there where he had murdered”.¹⁷⁹ This alleged proximity is mentioned repeatedly. In 1395, the Maltese man who had robbed the notary he served on his property in Montjuïc was executed on the gallows that were already on the same hill:

two men were sentenced, one Maltese and one Castilian, thieves, so the Maltese was hung because he had stolen from their country house outside the city from Pere Tomàs notary in Montjuïc with which said Maltese was and the Castilian to be whipped round the city and to be in the pillory and the Saturday following said Maltese was hung by the neck on the gallows of Montjuïc.¹⁸⁰

In 1366, Bernat de Torres was decapitated in the same square in Barcelona where he had killed Jaume Vilella.¹⁸¹ The fact that the scene of the crime coincided with a central point for urban life simplified its choice as the place for the execution. As in this case, if the death penalty were not applied on the gallows, it was easier to adapt to the moralising aims by linking the place where the crime had taken place with the execution. In this sense, in 1483, in line with the sentence, two men had their throats slashed in a street in Barcelona in front of the house where they had slashed a woman’s throat.¹⁸²

This was a frequent practice. The clearest example, at a time of food shortages in the city,¹⁸³ was the theft of grain committed in the 1370s in the Sea’s Porch (*Porxo de la Mar*), because the same area where the little grain available for consumption was stored was also, given its

central position, one of the regular places for executions. Thus, in December 1369, the subvicar of Barcelona stated that the accused had stolen grain there, the same place where he was hung: “on the 22nd of said month of December we hung Abdellà who was a Moor who became Christian and had named Tomàs and by trial by eminent citizens because he had stolen wheat from the porch, where we hung him”.¹⁸⁴

However, the dominant criterion for carrying out executions was to do so in central places, thus drawing a large number of people who could be taught a lesson about moral behaviour. As in Manresa, the central square¹⁸⁵ was the usual place in most towns and cities. However, there was a range of places for executions. In the capital of Catalonia, these were held in many places, although there was a clear and logical graduation of percentages. Around half those hung in Barcelona in the fourteenth century were executed on the gallows of the *Porxo* (Porch), close to the coast and thus referred to as the *forques de la Mar* (the Sea Gallows), the full name being *les forques del Porxo de la Mar* (the gallows of the Porch of the Sea).¹⁸⁶ The Porch was a large space that offered various places for executions. In 1391, two men were hung in the drain of the Porch—“a la claveguera del portxo”—and another nearby: “a les forques de la mar prop de la dita clavaguera”.¹⁸⁷ At the same time, although nearby,¹⁸⁸ the “gallow closer to Carbó”¹⁸⁹ was clearly different from those in the Porch of the Sea.¹⁹⁰ The stability of these places of execution meant looking after them, repairing them and replacing them with new gallows when needed, as happened in 1358, when the vicar of Barcelona calculated the expense of making new gallows in the Porch of the Sea in Barcelona: “He ordered new gallows to be made that he had placed in the porch of the sea of Barcelona”.¹⁹¹

New gallows in central points could form part of the policies imposed by the authority close to the king with the purpose of instilling a specific fear, as we have seen in the cases of Tàrrrega and Cervera in 1349. So, as mentioned, in these cases, the municipal governments protested against these gallows and the executions carried out on them. An extreme example was that when the high royal representative left Cervera, the town council ordered the new gibbet destroyed and the two bodies hanging from them to be moved to the traditional gallows. These were evidently also under royal jurisdiction but the town considered them to be their own.¹⁹²

In any case, the aim was always the ostentation of the gallows and their use. In other words, the punishment was meant to give the population an exemplary lesson. Under these conditions, an execution could take place far from the scene where the events leading to it took place. In 1374, King Peter wanted to flaunt his power by punishing

those he considered enemies and traitors for their lack of loyalty. The heir to the king of Majorca and count of Roussillon and Cerdanya dethroned two decades earlier had invaded¹⁹³ and found explicit support in the counties from such people as Pere Bortor. The latter was hung in the Porch of the Sea in Barcelona in 1376, far from the Pyrenean lands where he had committed the acts that he was being executed for, and in contrast, very close to the bustling capital of the country where the sovereign had to display his power:

Die mercuri, quinta die iunii, anno proxime dicto, fuit suspensus Petrus Bortor, alias Borro, in porticu Maris Barchinone, quique fuerat inculpatus de cedicione facta cuisdam castri, siti in comitatu Rosilionis, illis pravis gentibus que venerant de partibus Fransiæ in Cathaloniam, quarum erat capud et ductor infans filiis regis Maiorice.¹⁹⁴

Beyond such specific cases, the same places were used for executions, although these diversified. In the case of Barcelona, by the number of executions, half of all executions were carried out in the Porch of the Sea followed by the gallows in the *Plaça del Blat*, (Wheat Square) with 15.7%, then at Sant Andreu and the gallows on Montjuïc¹⁹⁵ both with about 10% of the total hangings. Smaller numbers were hung in a range of places. These included the mentioned gallows of Carbó, the *Plaça Nova* (New Square), the *Portal de la Boqueria* (the Gate of the Boqueria), the *Plaça de Santa Anna* (“the Santa Anna Square”), *Portal dels Orbs* (“the Gate of the Blind People”), the *Drassanes* (“the Dockyard”), the Campderà bridge, the Canyet, Vigatans Street or *Horta de Sant Pol* (Saint Paul Orchard). In reality, the adaptability and presence of instruments of execution spread all over the city. In 1394, the court of the vicar of Barcelona paid seven shillings to the carpenter who had built new gallows in front of the busy fish market: “to build gallows in front of the fish market”.¹⁹⁶ These were all busy places, either because they were central or easily visible from the main roads, criteria that, at the same time, combined as much as possible with the desire to link the site of the crime with the place of punishment. The numerous executions after the attack on the Jewish quarter in 1391 illustrate this, especially in Barcelona, where the first step was the hanging of eleven accused in the usual gallows of the city. Then others were added in prominent and very intentional places, such as the entrance to the Jewish neighbourhood:

There were sentenced and hung in the city because of the riots and robbery in the Jewish quarter that took place on 5th August past, 11 persons of whom two were hung at the gate of the court of the vicar on the part outside on the street; and two in the Wheat Square on some gallows, and two on the gallows of the porches near the Carbó,

and two at the gate of the Jewish Quarter towards Saint James, and one in the new square, and one in the Saint Anne square and one at the gate of the Blind people (Orbs).¹⁹⁷

The stability of the places of execution explains that the gallows were accepted although they were not used. When the civil war flared up again in 1468, the death penalty was applied in Barcelona to prominent citizens accused of treason—"Francesc Sescorts, merchant, who the past year was councillor of Barcelona, and a lawyer, Bernat Estupinyà, accused of having done a certain plot in the city of Barcelona against the said lord primogenitor and his state".¹⁹⁸ According to their social status, they were strangled beside the gallows in the Boqueria. So, the gallows were not used but the execution took place beside them, thus combining the symbolism inherent in the central position of the place: "after lunch of this same day they were taken from the prison and carried on foot to outside the Boqueria gate, beside the gallows, where they were strangled".¹⁹⁹

In Barcelona, the gallows of the Rambla—*las forca de la Rambla*—, especially those situated in the Boqueria—"in the Rambla, at the gate of the Bocaria",²⁰⁰ grew in importance and in the number of executions in the fifteenth century. What this really showed was the evolution of the city, with the increasing importance of this artery and the streets that branched of it into the emerging Raval district.²⁰¹ In this sense, the stabilisation of central places for execution was related to the inherent popular clamour, always provoked and intended to be exemplary.

Under this criterion, in large places various executions even accumulated. This was not difficult because the accomplices in robberies typically shared execution, having been arrested and sentenced together.²⁰² This led to depictions of condemned sharing gallows, like the four shown on the same gibbet in a sixteenth-century Valencian manuscript.²⁰³ In any case, the multiplication of tensions in large places made diverse mixtures easy, even of delinquents who were executed on the same scaffold but with different punishments. Thus, capital punishment could be combined with another sentence of mutilation, as applied in Barcelona, in 1472 when two executions were done together, one being a man who lost his hand and his tongue and the other, a man simply who lost his life: "two men were sentenced and executed, one was hung and the other had his fist cut off and tongue cut out".²⁰⁴

The gallows were the usual instrument of execution. As we have seen, seeking the symbolism that related the punishment with the scene where the crime had been committed, in 1399 in Pià (in the vicarage of Roussillon) two men were executed in an olive grove, this was just the scenario and, in fact, the gibbet (*la forca*) had to be built

there.²⁰⁵ The symbology of the narrative added other images, like the execution of eight followers of Berenguer Oller in 1285 that, according to the chronicle by Bernat Desclot, were all carried out in an olive grove, with the head of the revolt in the highest place: “He hung by the throat all seven in the same olive tree, being Berenguer Oller in the top of them”.²⁰⁶ One would have to wait until after the Middle Ages to find scenarios of summary and rapid executions from trees next to the tracks, as observed by travellers in the seventeenth century.²⁰⁷

On the other hand, throughout the Late Middle Ages, executions were generally only not held in public when this was in the interests of a power play, bearing in mind their symbolic significance. This is what happened in the mid-fifteenth century in the serious confrontation between the city of Barcelona and the governor of Catalonia.²⁰⁸ The later showed his power to exercise full justice by himself but avoided tension by ordering hangings at night. One morning in 1444, the governor’s municipal adversaries were given a show of his power when they saw with their own eyes that he had hung two prisoners during the night without trial by eminent citizens: “He had hung by night two prisoners without the eminent citizen trial”.²⁰⁹

Figure 10.5 Schematic depiction of the two citizens and the merchant who were hung from a barred window in Barcelona prison after being strangled in 1462, included in the information kept by the notary Safont in his diary (BC ms. 978, f. 88r).

Citizens could also be punished in the prison. At the beginning of the last third of the fifteenth century, urban tensions were rife in Barcelona, and the political divergences adopted the form of rapidly executed death sentences, already obvious in the so-called Saint Matthew’s plot of 1462. Former urban leaders were immediately executed in the prison, and what was notable was their public display.²¹⁰ In one case, in 1475, Jaume Oliver was strangled inside the prison, and his body then put on show in the King’s Square (*Plaça del Rey*).²¹¹ A similar practice was repeated in different towns and cities in the few cases with honourable citizens involved in common crimes, as with the notary from Lleida involved in robberies in 1486. He was executed inside the prison and then immediately displayed for some hours in front of the houses where the crimes he was accused of had taken place:

Be strangled in the city council with a hangman’s rope of hemp and garotte of wood and when strangled, immediately placed on his back on a ladder and stretched out, taken to the Main Square of the said

city, that is, in front of the house of the son of La Botera and the shop of Miquel Guiu, in which place he was until after nine o'clock after noon of this present day and after the said nine, buried.²¹²

The sentences dictated by the king give some examples of the adaptability of the death penalty to the crime and the personal status of the accused. In 1358, Peter the Ceremonious handed down a sentence that was meant to be exemplary. In a serious episode in the tensions between factions in the city, Ramon Marquet, a member of a very notable family, and who was surely a city councillor and domestic servant to Prince Peter,²¹³ was accused of inciting the murder of another prominent person, Ramon de Santvicenç.²¹⁴ As a citizen of the city, the sovereign respected that he should not be hung but rather should die by drowning. However, he decreed that this would be carried out in the sea, coinciding with the work of the Marquets, important ship-owners who had served the monarch²¹⁵ by leading his fleet:²¹⁶

Die iovis, vicesima prima iunii, anno proxime dicto [fuit] suffocatus in mari venerabilis Raymundus Merqueti, ex sententia inde data per dominum regem; et, ut dicebatur, fuit ad dictam mortem iudicatus ratione mortis Raymundi de Sancto Vincencio, qui fuerat interfectus cum treta intus hospicium Marchi Castanyerii, in carraria Simonis Ollarii, in qua morte dicebatur ipsum Raymundum Marqueti prestitisse assensum.²¹⁷

There was the precedent of Baron Ramon Guillem II of Òdena, who was condemned to be thrown into the sea—"morti condemnatus ac maris pelage demergi"—in 1261.²¹⁸ The heir to the Crown, Prince Peter, acting as the highest delegate of his father James I—"procuratorem et regimen totum ab integro totius Catalonie"²¹⁹—was facing a fierce rebellion by the nobles against the king.²²⁰ In this framework, he tried to impose a paradigmatic punishment on the Baron of Òdena, having him drowned at sea. The *Gesta Comitum Barcinonensium* relates both extremes of the tension, the offence to the king and his land and the condemnation of the baron to die drowned at sea: "cum Raimundus Guillelmi d'Oderna, hostis antiquus patriae, dominum regem Iacobum et terram suam in pluribus contra bonos mores et iustitiam offendisset, cepit eum iste nobilis puer Petrus".²²¹ A very lineal reading enables us to interpret this as punishment for the Òdenas, defined as a violent family at a time of strong noble arbitrariness.²²² The reality was that the barons were strengthening their dominance over the land, claiming full jurisdictional powers against the monarch's pretensions. This led to forceful legal barriers and lack of collaboration among jurisdictions, that meant a proliferation of episodes in which those condemned in one jurisdiction sought refuge in another, with the consequent disputes and

accusations of having violated the jurisdictional order.²²³ The dispute around the strength of both parties—the lords with jurisdictional power on one side and the king on the other—led to general clashes, including the withdrawal of due loyalty by the nobles as a measure of pressure.²²⁴ The chronicler Desclot framed the sentence of the lord of Òdena in the context of the rebellious nobles harming the Prince Peter and damaging the land:

The knights of Catalonia wished harm to Prince Peter because he did not want to suffer from the damage that the knights did to the land, and they killed and struck the people of the land, and stole on the roads and promoted killers and thieves.²²⁵

The chronicler continued explaining that the Prince Peter punished the barons that he could caught, in which framework he proclaimed the sentence which led Ramon Guillem of Òdena to be drowned at sea:

And Prince Peter restricted them as he can and punish them from the lesser to the majors when he can keep someone of them. For this reason he detained Ramon Guillem of Òdena, who was from a great lineage of Catalonia, and had him drowned at sea.²²⁶

The sentence had strong reverberations, which was the desired political effect.²²⁷ Throwing a body into the sea highlighted a denial of religious burial, which became the most relevant aspect of this condemnation.²²⁸ In fact, at that time, being buried in a holy place, especially a monastery, was considered of great help for the most important challenge, that of eternal salvation, because being interred there guaranteed the inherent protection of the saints and prayers,²²⁹ as well as consolidating a place in the memory of the lineage.²³⁰ So, it was considered serious that execution denied the dead a place for their eternal rest until resurrection in the Parousia. When dictating his will, the same Ramon Guillem II of Òdena choose where he wanted his body to rest if the sea returned it to the land: “*eligo mansionem corporis vero sepulturam in Sanctarum Crucum eligo monasterio si tamen me inibe aliquando ipsum terre reddiderit de cuius material originaliter fuit sumptum*”.²³¹

This eternal rest would not be easy for the bodies of the executed. The infamy inherent in the condemnation and sentence went beyond the execution. So, what mostly happened was that the shame and sorrow continued after the penalty had been applied. In practically all cases, the exemplary aspect that it was aimed to achieve through the death penalty naturally continued after it had been carried out through the display of the bodies of the executed. Even the graduation of this according to the supposed seriousness also persisted.

Notes

- 1 “Pene de mort, ço és, que si és hom de peratge o ciutadà honrat que sia escapçat e si és altre que sia penjat”. AHCB, B-IV, llibre d’ordinacions, 2, f. 16r.
- 2 “Deu ésser penjat o déu perdre lo cap”. Costums de Tortosa, 9.2.4. Jesús Massip, *Costums de Tortosa*. Fundació Noguera, Barcelona, 1996, p. 415.
- 3 Dominique Barthélemy, “Parentesco”, *Historia de la vida privada*, Philippe Ariès, Georges Duby, eds., Taurus, Madrid, 1991, vol. 3, p. 123.
- 4 “se:l vescomz viu no sosterra/e no:l pend ab un retort”. “Guillem de Berguedan”, *Repertorio informatizzato dell’antica letteratura trobadorica e occitana (Rialto)* [www.rialto.unina.it/GIBerg/210.17a\(Riquer\).htm](http://www.rialto.unina.it/GIBerg/210.17a(Riquer).htm). Consulted: 4th August 2018.
- 5 Flocel Sabaté, “Ejes vertebradores de la oligarquía urbana en Cataluña”, *Revista d’Història Medieval*, 9 (1998), pp. 139–153.
- 6 Joan-Lluís Palos, *Catalunya a l’imperi dels Austria*, Pagès editors, Lleida, 1994, pp. 201–203.
- 7 AHCB, B-II, registre de deliberacions 22, f. 204v-205r.
- 8 AHCB, B-II, registre de deliberacions, 22, f. 204v-205r.
- 9 Josep Maria Sans i Travé, ed., *Dietaris de la Generalitat de Catalunya*, Departament de Presidència de la Generalitat de Catalunya, Barcelona, 1994, vol. 1, p. 192.
- 10 Nicole Gonthier, *Le châtement du crime au Moyen Âge*. Presses Universitaires de Rennes, Rennes, 1998, pp. 160–161.
- 11 Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 176.
- 12 AML, Administració de Justícia, processos de crims A-822, f. 177v.
- 13 “el negarets”. ACA C, reg. 1261, f. 135v.
- 14 Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 207.
- 15 Maria Dolors Farreny i Sistac, *Processos de crims del segle XV a Lleida: transcripció i estudi lingüístic*, Institut d’Estudis Ilerdencs, Lleida, 1986, pp. 65–66.
- 16 Frederic Schwartz, Francesc Carreras, *Manual de novells ardots vulgarment apellat dietari del antich consell barceloní*, Imprenta de’n Henrich y Companyia, Barcelona, 1892, vol. 1, p. 25.
- 17 “fou escapsat Phelip Sagoda de Tarragona y penjat Ramon Desto de Barcelona perquè havían mort a Bernat de Prats ab un tir de brotxia”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d’Henrich y Companyia, Barcelona, 1913, vol. 2, p. 309.
- 18 “Crònica del racional de la Ciutat de Barcelona (1334–1417)”, *Recull de Documents i Estudis*, 1/2 (1921), pp. 139–140
- 19 “Crònica del”, p. 155.
- 20 “perquè a ella sie càstich e ha altres semblants coses atemptants en exemple”. AML, llibre del crims 789, f. 5v; Miquel Montanya, *El tribunal de coltellades. Alguns aspectes processals*, Ajuntament de Lleida—Pagès editors, Lleida, 2007, p. 240.
- 21 “fer terror als altres semblants coses volents assajar”. ACBEB, Paeria i Vegueria II, 61, f. 152v-53r.
- 22 “féu la crida de la justícia”. ACA MR 1546–1, f. 22v.
- 23 ADPO 1B-210, f. 38r.
- 24 “botxi per fer les justícies”. ADPO 1B-190, f. 2v.
- 25 “la carcelleria de la vila de Perpenyà”. ADPO 1B-210, f. 38r.
- 26 “haia a ffer les justícies qui per los officials Reyals seran ordonades e totes altres coses que botxi sia tengut de fer”. ADPO 1B-186, f. 45v.
- 27 ACA MR 1512, f. 68r.

- 28 “tatxació de XXIII lliures les quals foren tatxades als dits botxins per sustentació e llur vida”. Frederic Schwartz, Francesc Carreras Candi, *Manual de novells ardots vulgarment apellat dietari del antich consellbarceloní*, Imprenta de’n Henrich y Companyia, Barcelona, 1893, vol. 2, pp. 478–480.
- 29 Schwartz, Carreras, *Manual de novells ardots*, vol. 2, p. 169.
- 30 “que sie pengat per la gola axí que’s muyre”. AML Processos de Crims A-764, f. 136v.
- 31 “sie penjat per la gola en manera que’n muyre”. Montanya, *El tribunal de coltellades*, p. 178.
- 32 “penjat en manera que morís”. Schwartz, Carreras, *Manual de novells ardots*, vol. 2, p. 561.
- 33 “capdeguaita”. About this official, see Flocel Sabaté, “Capdeguaita”, *Enciclopèdia de Barcelona*, Ramon Alberch, Jesús Giral, eds., Enciclopèdia Catalana, Barcelona, 2005, vol. 1, p. 241 (This brief definition of the official is the most recent, although I must warn that its contents were altered and modified, without consulting the author, during the editing process, and consequently there are serious changes to the author’s original and correct text.).
- 34 ACA MR 1522, f. 371r.
- 35 ACA MR 1525, f. 75r.
- 36 ACA MR 1525, f. 75r.
- 37 ACA MR 1548, unnumbered.
- 38 ACA MR 1547, f. 100r.
- 39 ACSV, clavaría 2, f. 22v.
- 40 “los trompadors qui tromparen per la vila lo dia que penjaren en Segarra”. ACSV, clavaría 2, f. 22r-v.
- 41 “que porta penjada al col”. ACA MR 1548, unnumbered.
- 42 Gonthier, *Le châtement du crime au Moyen Âge*, pp. 126–128.
- 43 “De ce serroit charrete lores/don li pilori servent ores/et en chascune boene vile,/ou or en a plus de trois mile,/n’en avoit a cel que une,/et cele estoit a ces commune,/aussi con li pilori sont,/a ces qui murtre et larron sont/e a ces qui sont champ cheü/et as larrons qui ont eü/autrui avoir par larrecin/ou tolu par force an chemin:/qui a forfet estoit repris,/s’estoit sor lacharrete mis/et menez par totes les rues,/s’avoit totes enors perdues,/ne puis n’estoit a cort oiz/ne enorez ne conjoiz/Por ce qu’a cel tens furent tex/les charretes, et si cruex,/fu premiers dit: “Quant tu verras/charrete et lu t’ancontreraas,/fei croiz sor toi et te sovaigne/de Deu, que max te’n avaigne”. Chrétien de Troyes, *Le chevalier de la charrette*, Catherine Croizy-Naquet, ed., Honoré Champion Éditeur, Paris, 2006, pp. 86–88.
- 44 “Del chevalier que cil aporte/sor la charrete se mervoillent/les genz, mes mien el consoillent,/einz le huient petit et grant,/et le veillart et li enfant,/parmi les rues a grant hui,/S’ot molt li chevaliers de lui vilenies et despit dire,/Tuit demandent: “A quel martire/Sera cist chevaliers randuz/?Iert il escorchiez ou panduz,/noiez ou ars an feu d’espines/?Di, nains di, tu qui le traînes,/a quell forfet fu il trovez/?Est il de larrecin provez/?Est il murtriers en champ cheüz?”. Troyes, *Le chevalier de la charrette*, p. 90.
- 45 “I post en què stegeren los dits homens sobre la carrete mentre que’ls portaven a la forcha”. ACA MR 1525, f. 73v.
- 46 “una post qui és per rossegar”. ACA MR 1569, A-2, unnumbered.
- 47 “una sàrria en què fo roçegat”. ACA MR 1547, f. 98r.
- 48 “I mul qui’l rocega”. ACA MR 1547, f. 108r.
- 49 José I. Padilla, ed., *L’esperit d’Àneu. Llibre dels costums i ordinacions de les Valls d’Àneu*, Consell Cultural de les Valls d’Àneu, Esterri d’Àneu, 1999, p. 148.

- 50 AML, Administració de Justícia. Processos de crims, A-787, f. 117, f. 124r; Manuel Camps, *El torment a Lleida (segles XIV–XVII)*, Edicions de la Universitat de Lleida, Lleida, 1998, p. 78.
- 51 Joan Badia-Homs, Enric Carreras, *Llançà a l'època medieval. Aportacions al seu estudi*, Edicions El Brau, Figueres, 1995, p. 183.
- 52 “loguer de IIII bèsties en la una de les quals cavalca lo sotsveguer e l'altra I scuder que mena e I en què fo portada la scala a les forques den Vallserra e l'altra bèstia ab la qual fou rocegat lo dit Martí de Castro”. ACBEB, clavari 13, p. 125.
- 53 ACBEB, clavaria 13, pp. 125–126.
- 54 “I post en quèl rossegaran”. ACA MR 1569 A-2, unnumbered.
- 55 “I post on which he will be dragged”. ACA MR 1546–1, f. 22v.
- 56 ACA MR 1569 A-2, unnumbered.
- 57 ACSG, clavaria 2, f. 46r.
- 58 “I corda e I cabaç ab que rodaren lo dit hom”. ACSG, clavaria 1, f. 33r.
- 59 “Rodaren I hom de Tàrrega que puy fo penjat”. ACSG clavaria 1, f. 35v.
- 60 ACSG, clavaria 2, f. 45v.
- 61 ACBEB, Paeria i Vegueria II, 61, f. 152v–153r.
- 62 Francesc Carreras Candi, “Ordinacions o establiments a Tortosa (anys 1340–1344)”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 11 (1923–1924), p. 417, Costums de Tortosa, 9.2.3; Massip, *Costums de Tortosa*, p. 415.
- 63 ACSG, clavaria 1, f. 22r.v.; Clavari 2, f. 35v.
- 64 Flocel Sabaté, “Menjar amb el veguer (segle XIV, segons meitat)”, *Etudes Roussillonaises*, 11 (1992), pp. 59–60.
- 65 “Fo dada sentència de penyar a I hom jove nat en Barchinona de edad de XXV anys, lo qual era estat encolpat e havia dades ab d'altres matzines a I fill d'en Solà, quondam, corredor de Barchinona, de les quals matzines morí. Li toleren los punys, so és lo I devant la font de Sent Michel e davant I carreró qui no passa que llà és e l'altre puny a la plaçe del Blat, puy fo penyat en la forcha prop lo Carbó”. *Manual de novells ardots*, vol. 1, p. 4.
- 66 Precisely, as Comenge stated in 1901, the flow of blood they did not know how to stop, the retraction of the flesh they could not correct and, above all, the serious risks of infection limited the use of surgery to amputation. Luis Comenge, “Perdrá lo puny”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 1 (1901), p. 68.
- 67 “I gallina que meseren al puny d'en Agustí de Calssà, a qui fo tolt e fo pendut pel coll”. ACA MR 1523, f. 78v.
- 68 ACA MR 1523, f. 80v.
- 69 “Met en dada los quals dessús a X del mes d'octubre de l'any demunt dit que fiu de masió en la justícia de I catiu apellat Allí, lo quall fo rosagat e atenayat e espuyat e pangat. Primerament ach lo cridador qui féu la crida de la justícia I sou; item costa I post en que'l rosagaran II sous; item costaran cordes ab que'l rosagaran e'l penjaran I sou; item costa lo mul qui'l rosagaran II sous; item costaran I hom e I asa qui portaran l'escala ab que'l panjaran tro el portxo, II sous; item costa de portar la destreal e la masa, 1 sou”. ACA MR, 1546–1, f. 22v.
- 70 Very unusually, male sexual organs, without being amputated, could be the subject of ridicule in cases of adultery in some local customs, although its equivalence in a fine was soon established. In Saint-Gaudens, the county of Cominges, currently in France, the two adulterers had run naked through the town, the “mulier cum qua repertus fuerit trahat ipsum cum quadam loga seu corda ligata testiculis illius inter tibias”. Charles Higounet, *Le comté de Comminges de ses origines à son annexion à la Couronne*, L'Adret, Saint-

Gaudens, 1984, p. 381.

- 71 “que li sie tolt lo membre en la plaç dels Polls i tolt amb lo membre al coll, corregue la vila e après que sie penjat per la gola”. AML, Administració de justícia. Processos de crims, reg. 788, f. 105r.
- 72 “I fust de ferra en la lengua”. ACA MR 1547, f. 110r.
- 73 Flocel Sabaté, *Lo senyor rei és mort*. Edicions de la Universitat de Lleida, Lleida, 1995, p. 135.
- 74 “Item a XXVI del mes de juny dessus dit costa entre I ligam e I ganxo e loger d’un rahor e lenya a obs de penjar e tallar la lengua e de cremar la dita lengua an Pere Antich, del loch d’Alella, lo qual fo sentenciat per lo senyor duch qui lavors ere en Barcelona a ésser penjat al porxo e a ésser-li tallada la lengua e a ésser cremada al peu de la forcha e açò per tal com havia jurat e dites leges peraules de Déu e de la Verge Maria, II sous III diners”. ACA MR 1547, f. 100r
- 75 Maria Cinta Mañé, “Falsificació de moneda a Girona (1314–1315)”, *Homenatge a la Memòria del prof. Dr. Emilio Sáez*, Universitat de Barcelona—CSIC, Barcelona, 1989, pp. 116–122.
- 76 “Fiu justícia de I moneder qui fo rocegat e costa una serria en qu’l rocegaren XVIII diners. Item costa I dogal ab que fo penjat, VIII diners. Item costa una somada de lenya per cremar una caxa ab los ferraments del dit moneder III sous. Item costa de loger lo mull que’l rocega II sous. Item una soga V diners. Item canyes II sous. Item lo cresol en què foseran lo plom I sou. Item lo bastax qui porta la caxa dels ferraments IIII diners”. ACA, MR 1475–1, f. 79v.
- 77 ACSG, Clavaria 1, f. 41v.
- 78 ACSG, Clavaria 1, f. 41v; Clavaria 2, f. 46r.
- 79 “aquell qui toca la trompeta”. ACA MR 1548, unnumbered.
- 80 “trompeta de la dita cort”. ACA MR 1547, f. 98r.
- 81 “done an Pere Bagà per tocar la trompeta e per fer la crida de la dita sentència, I sou”. ACA MR 1547, f. 100r.
- 82 ACA MR 1546–1, f. 22v, for example.
- 83 ACA MR 1546–1, f. 22v, for example.
- 84 Florence Bayard, *L’art du bien mourir au XVe siècle*, Presses de l’Université de Paris-Sorbonne, Paris, 1999, pp. 15–172.
- 85 Flocel Sabaté, “La mort du roi en Catalogne: de l’événement biologique au fait historique”, *Faire l’événement au Moyen Âge*, Claude Carozzi, Huguette Taviani-Carozzi, eds., Publications de l’Université de Provence, Aix-en-Provence, 2007, pp. 164–174.
- 86 Francis Rapp, *L’Église et la vie religieuse en Occident à la fin du Moyen Âge*. Presses Universitaires de France, Paris, 1999, pp. 152–155.
- 87 Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation*, The Pennsylvania State University Press, University Park, 2005, p. 71.
- 88 Nicole Gonthier, *Le châtement du crime au Moyen Âge*. Presses Universitaires de Rennes, Rennes, 1998, p. 192.
- 89 Adriano Prosperi, *Delitto e perdono. La pena di morte nell’orizzonte mentale dell’Europa cristiana. XIV–XVIII secolo*, Giulio Einaudi editore, Turin, 2013, pp. 65–67.
- 90 “y’s recordà com los vehé ab lo Crucifici en la mà y ab lo dogal al coll los aportaven a penjar”. Badia-Homs, Carreras, *Llançà a l’època medieval*, p. 183.
- 91 “fou a la Rambla, loc designat a ésser penjat e fos ja confessat e pujàs per la scala”. Schwartz, Carreras, *Manual de novells ardis*, vol. 2, pp. 126–127.
- 92 This is very different from the artistic depictions in England from the earlier centuries where the steps are drawn on the side bars of the gallows. Robert Bartlett, *Panorama medieval*, Art Blume, Barcelona, 2002, p. 106.

- 93 “cordes que hac mester a ligar la scala de la forcha cor era poyrida”. ACA MR 1522, f. 371r.
- 94 “II scales a les forques per pujar-hi lo dit Pere Mir qui fo condemnat a mort e per tal com la scala de les forques era trencara foren-hi portades les dites dues scales”; “sustentar les dites scales”. ACA MR 1527, f. 281r-v.
- 95 ACA MR 1527, f. 280r.
- 96 “XX claus qui compra per clavar los dits X scalons”. ACA MR 1500, f. 71r.
- 97 ACA MR 1528, f. 232r.
- 98 ACA MR 1548, unnumbered.
- 99 “una scala que compre nova a obs de la cort”. ACA MR 1475–1, f. 82r.
- 100 “l’escala a les forches com penjaren lo dit hom”. ACSG, clavaria 1, f. 33r.
- 101 ACSG, clavaria 2, f. 22r-v
- 102 “la escala de portar al dit loch on fo penjat”. ACA MR 1547, f. 100v.
- 103 “costa de portar la eschala e altres arreus de la cort del veguer entro al dit Porxo e de tornar a la dita cort”. ACA MR 1547, f. 100r.
- 104 “I hom e I asa qui portaran l’escala ab que.l panjaren”. ACA MR 1546–1, f. 22v.
- 105 “en que fou portada la scala a les forques d’en Vallsera”. ACBEB, clavaria 13, p. 125.
- 106 “fem donar e pagar per lo dit nostre clavari an Guillem dez Vall del loch de Muntleó per rahó com porta una bigua e eschala a les forques e tornar la eschala de les forques a la vila com penyaren lo dit sclau Mestre”. ACSG, clavaria 23, f. 55v
- 107 “an Bernat d’Àger, perayre per rahó de una biga que los pahers feren posar en les forques com penyaren lo fadrí de Fiyllol, la qual biga era del dit Bernat d’Àger”. ACSG, clavari 23, f. 58v.
- 108 ACA MR 1527, f. 286r.
- 109 “los ligams ab què foren penduts”. ACA MR 1522, f. 366v-367r.
- 110 “fou pendut per son coyll”. ACA MR 1524, f. 305r.
- 111 “I sogà de cànem”. AHCC, clavaria 1, f. 41v.
- 112 ACA MR 1512, f. 68r.
- 113 “ligaren les mans”. AHCC, clavaria 2, f. 45v.
- 114 “la corda prima a les mans”. ACA MR 1527, f. 280r.
- 115 “la corda prima de les mans”. ACA MR 1527, f. 286r.
- 116 ACA MR 1548, unnumbered.
- 117 “I ligam e cordes primes”. ACA MR 1547, f. 108r.
- 118 ACA MR 1528, f. 236r.
- 119 ACA MR 1547, f. 101v.
- 120 ACA MR 1525, f. 73v.
- 121 “I al coyll e l’altre a les spatles”. ACA MR 1524, f. 297v.
- 122 “I al coll e altre per les spatles ab corda prima a ligar les mans”. ACA MR 1525, f. 81r, 83v.
- 123 ACA MR 1528, f. 262v, 275v.
- 124 ACA MR 1527, f. 286r.
- 125 ACA MR 1527, f. 281v.
- 126 ACA MR 1549–1, f. 61r.
- 127 The practice described by Catalan sources is the same one represented in the first half of the fourteenth century in a bas-relief in the pulpit in the church of Saint Claire (Santa Chiara) in Naples (currently conserved in the Santa Chiara Museum Complex, see [Figure 10.4](#)). Nevertheless, depictions of women hanging in the sixteenth and seventeenth centuries in Germany or England do not show their skirts tied up with ropes. Martin Schieber, *Nuremberg, the Medieval City*, Sandberg Verlag, Nuremberg, 2009, p. 50; Jeffrey Richards,

Sex, Dissidence and Damnation. Minority Groups in the Middle Ages, Routledge, London–New York, 1990, pp. 84–85

- 128 “Item a XXII del mes de març penjam per juy de promens na Borda, ffembra pecadora encolpada que havia jurat legement de Déu e dites peraules de Déu e de madona Santa Maria que no deuen esser retretes. Costa I ligam e cordes a ligar les mans e les faldes entorn dels peus, I solido, IIII denari”. ACA MR 1547, f. 104r–v.
- 129 “an Jacme Savina barber per son salari de raure”. ACA MR 1528, f. 231v.
- 130 “los quals estaven e eren en la dita cort delats de diverses e enormes crims per los quals après foren penjats”. ACA MR 1528, f. 231v.
- 131 ACA MR 1528, f. 231v.
- 132 Flocel Sabaté, “L’Església secular catalana al segle XIV: la conflictiva relació social”, *Anuario de Estudios Medievales*, 28 (1998), pp. 760–761.
- 133 “fou penjat, ras lo cap perquè allegava corona adulterina, a les forcas de la Rambla”. Schwartz, Carreras, *Manual de novells ardots*, vol. 2, p. 73.
- 134 ACA MR 1525, f. 73v.
- 135 ACA MR 1527, f. 263r.
- 136 ACA MR 1525, f. 73r.
- 137 “com lo dit hom no tragués bragues ni camisa”. ACA MR 1524, f. 372v–373r.
- 138 “I camisa he bragues ad ops del dit Pere com no’n vestís he I capell”. ACA MR 1524, f. 363r.
- 139 “camises, brages e capeyls a obs dels dits penduts”. ACA MR 1533, f. 366v–367r.
- 140 ACA MR 1526, f. 48r.
- 141 “camisa, brages e capeyl”. ACA MR 1522, f. 371r.
- 142 “féu comprar drap de li per fer camissa e bregues e capell a ops del dit Thomeu Mir ab los quals lo dit Thomeu Mir fou pendut”. ACA MR 1524, f. 297v.
- 143 ACA MR 1522, f. 371r.
- 144 ACA MR 1528, f. 236r.
- 145 ACA MR 1169 A-2, unnumbered.
- 146 “los guants a ops del morro de vaques”. ACA MR 1524, f. 297v.
- 147 “per uns gants al botxí per fer la justícia”. ACA MR 1528, f. 236r.
- 148 ACA MR 1528, f. 235v.
- 149 ACA MR 1569 A-2, unnumbered.
- 150 Jaume Riera i Sans, “La conflictivitat de l’alimentació dels jueus medievals (segles XII–XV)”, *Alimentació i societat a la Catalunya medieval*, CSIC, Barcelona, 1988, p. 301.
- 151 Francisco Sevillano Colom, *Valencia urbana medieval a través del oficio del mustaçaf*, Institución Alfonso el Magnánimo, Valencia, 1957, p. 50.
- 152 Flocel Sabaté, “L’ordenament municipal de la relació amb els jueus a la Catalunya baixmedieval”, *Cristianos y judíos en contacto en la edad media: polémica, conversión, dinero y convivencia*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2009, pp. 739–741.
- 153 ACA MR 1522, f. 366v.
- 154 ACA MR 1528, f. 236r.
- 155 “cordes, camisa, bragues, coffa, gans e altres coses que la cort hac mester”. ACA MR 1527, f. 263r.
- 156 “no’s deu fer negun solaç desonest; ne y deuen estar coses venals; ne s’i deu sostenir neguna inmundicia; ne forcha deu aquí ésser ne costell, ne s’i deu nagun posar ne sentenciar”. Francesc Eiximenis, *Dotzè Libre del Crestià*, chap. 110. Francesc Eiximenis, *Dotzè Libre del Crestià. I.1*, Xavier Renedo, ed., Universitat de Girona—Diputació de Girona, Girona, 2005, p. 241.

- 157 AHMV, llibre de privilegis XIX, f. 228v-229r
- 158 Flocel Sabaté, "El veguer i la vegueria de Tortosa i Ribera d'Ebre al segle XIV", *Recerca*, 2 (1997), pp. 118–126.
- 159 "en nul loc dins los térmens de Tortosa justícia corporal no's deu fer, sinó en la ciutat de Tortosa". Costums de Tortosa, 1.1.16; Jesús Massip, *Costums de Tortosa*. Fundació Noguera, Barcelona, 1996, p. 13.
- 160 Enrique Bayerri, "*Llibre de Privilegis*" de la villa de Ulldecona. Imprenta Blanch, Tortosa, 1951, pp. 19–21, 136–137.
- 161 ACBEB, clavaria 1, f. 2v.
- 162 ACBEB, clavaria 2, f. 30r-v.
- 163 ACBEB clavaria 23, p. 188.
- 164 AHMV, llibre de privilegis XXV, parchment 438.
- 165 Flocel Sabaté, "Perpinyà capital baix medieval dels comtats de Rosselló i Cerdanya", *La Ciutat i els Poders. Actes del Col·loqui del 8è Centenari de la Carta de Perpinyà (Perpinyà, octubre 1997)*, Louis Assier Andrieu, Raymond Sala, eds., Institut Català de Recerques en Ciències Socials de la Universitè de Perpignan, Perpignan, 2000, pp. 182–197.
- 166 ACA MR 1512, f. 65r-v.
- 167 ACA MR 1512, f. 67v.68r.
- 168 ACA MR 1500, f. 72.
- 169 Flocel Sabaté, *El veguer a Catalunya. Anàlisi del funcionament de la jurisdicció reial*, Universitat de Barcelona, PhD Dissertation, Barcelona, 1993, vol. 3, pp. 2789–2791.
- 170 ACA MR 1522, f. 367v.
- 171 ACA MR 1527, f. 280r.
- 172 ACA MR 1528, f. 262v-263r.
- 173 ACA MR 1522, f. 362r.
- 174 ACA MR 1522, f. 362v.
- 175 "per dos dies que anà a companyar en Macafust ad Estagel, on fou pendut". ACA MR 1522, f. 368v.
- 176 "loger de la bèstia en què cavalca en Macafust car lo menaren pengar ad Estagell". ACA MR 1522, f. 368v.
- 177 "havia fets penjar al terme d'Apià en I oliver". ACA MR 1528, sheet 233r.
- 178 "Crònica del racional", p. 130.
- 179 "què fos penyat là hon havia fet homey". ACA MR 1548. unnumbered.
- 180 "Foren sentenciats II homens, I maltès e I castellà, ladres, so és lo maltès que fos penyat per ço com havia robada una torra d'en P. Thomàs notari a Munt Juych ab lo cual lo dit maltès estava e lo castellà a ésser escobat per la ciutat e estar al costell e lo dissapte après següent fo penyat per lo coll lo dit maltès en les forques de Montjuych". Schwartz, Carreras, *Manual de novells ardis*, vol. 1, p. 8.
- 181 "Crònica del racional", pp. 139–140.
- 182 AHCB, B-II, registre de deliberacions 26, f. 180v-181r.
- 183 Philippe Wolff, "Un grand commerce medieval: Les céréales dans le bassin de la Méditerranée Occidentale. Remarques et suggestions", *VI Congreso de Historia de la Corona de Aragón (Cerdeña, diciembre 1957)*, Ministerio de Asuntos Exteriores, Madrid, 1959, p. 161.
- 184 "a XXII dias del dit mes de deembre penjam en Abdellà qui ere moro que's feu cristià e hac nom Thomàs e açò per juy de prohomens per tal com havia emblat forment al porxe, on lo penjam". ACA MR 1547, f. 103r.
- 185 Joaquim Sarret i Arbós, *Història de l'Estat polític-social de Manresa*, Imprempta i enquadernacions de Sant Josep, Manresa, 1925, p. 83.
- 186 ACA MR 1548, unnumbered, as an example of these references used as

synonyms.

- 187 Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 23.
- 188 Francesc Carreras i Candi, *La ciutat de Barcelona*. Establiment Editorial de Albert Martin, Barcelona, undated, p. 576.
- 189 “forca prop lo Carbó”. Schwartz, Carreras, *Manual de novells ardots*, vol.1, p. 4.
- 190 Schwartz, Carreras, *Manual de novells ardots*, vol.1, p. 23.
- 191 “fiu fer en unes forques noves que fiu metre al porxo de la mar de Barchinona”. ACA MR 1475–1, f. 82r.
- 192 ACSG, clavaría 5, f. 19v.
- 193 Jesús Ernest Martínez Ferrando, *La tràgica històrica del reis de Mallorca*, Editorial Aedos, Barcelona, 1979, pp. 268–269.
- 194 “Crònica del racional”, p. 151.
- 195 ACA MR 1547, f. 102r-v.
- 196 “per fer unes forques davant la Pescataria”. ACA MR 1549–2, f. 61r.
- 197 “Foren sentenciats e penyats en la ciutat per raó de l’avalot e robament del call qui fo fet a V de agost prop passat, XI persones de les quals foren penyades II a la porta de la cort del veguer a la part de fora la carrera; e II en la plaça del Blat en unes forques e II a les forques del portxo prop lo Carbó e II a la porta del Call juich vers Sent Jacme e I a la plaça nova e I a la plaça del Sancta Anna e I al portal dels Orps”. Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 23.
- 198 “a’n Ffrancesch Çescorts, mercader, qui l’any proppassat era stat conseller de Barchinona, e a misser Bernat Stupinyà, delats de haver feta certa conjuració en la ciutat de Barchinona contra lo dit senyor primogènit e son stat”. Sans Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 192.
- 199 “lo deprés dinar de aquest mateix die foren trets de la presó e menats a peu fins defora lo portal de la Bocaria, dejús la forcha, on foren scanyats”. Sans Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 192.
- 200 “a la Rambla, al portal de la Bocaria”. Schwartz, Carreras, *Manual de novells ardots*, vol. 2, p. 561.
- 201 Manuel Guardia, Albert Garcia Espuche, “Consolidació d’una estructura urbana: 1300–1516”, *Història de Barcelona*, Jaume Sobrequés, ed., Enciclopèdia de Barcelona—Ajuntament de Barcelona, Barcelona, 1992, vol. 3, p. 62.
- 202 ACA MR 1522, f. 366v-367r.
- 203 Carlos López, *Patrimonio Regio y orígenes del Maestro Racional del Reino de Valencia*, Generalitat Valenciana, Valencia, 1998, p. 44.
- 204 “foren sentenciats y executats dos homens, ço és hu a penjar y l’altre levat lo puny y tallada la lengua”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 42.
- 205 ACA MR 1528, f. 233r.
- 206 “féu-los penjar per la gola tots set en una olivera, e En Berenguer Oller pus alt de tots”. Bernat Desclot, *Llibre del rei en Pere*, chap. CXXXIII; Ferran Solvdevila, ed., *Les quatre grans cròniques*. Editorial Selecta, Barcelona, 1983, p. 518.
- 207 Francisco Manuel de Melo, *Guerra de Cataluña*, Joan Estruch, ed., Castalia, Barcelona, 1996, p. 73.
- 208 Carme Batlle, *Barcelona a mediados del siglo XV*, El Albir, Barcelona, 1976, pp. 18–28.
- 209 “havia penjat de nits a dos presos sens juy de promens”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 3, p. 42.
- 210 Jaume Safont, *Dietari o Llibre de Jornades (1411–1484)*, Josep Maria Sans

Travé, ed., Fundació Noguera, Barcelona, 1992, pp. 150–153.

- 211 AHCB, B-II, registre de deliberacions, 22, f. 204v-205r.
- 212 “Sie offegat dins la casa de la paheria ab hun dogal de cànem e garrot de fust e quel offegat, de continent posat de esquena sobre una escala tot larch e estés, portat e posat en la Plaça Major de dita ciutat, ço és, davant casa del fill de la Botera e la botiga de Miquel Guiu, en lo qual loch estigue fins a les nou hores tocases passat mig jorn present dia i tocases dites nou hores, sie soterrat”. AML, Administració de Justícia. Processos A-822, f. 177r.
- 213 Precisely, the importance of the family placed various homonyms on the scenario like Ramon Marquet which posed some doubts about the full singularisation of each of them in the family biography. Maria Teresa Ferrer, “Marquet”, *Gran Enciclopedia Catalana*, Barcelona, Enciclopèdia Catalana, 1989, vol. 14, p. 419; Maria Teresa Ferrer, “Una família de navegants: els Marquet”, *El “Llibre del Consell” de la ciutat de Barcelona. Segle XIV: les eleccions municipals*, Carme Batlle, Maria Teresa Ferrer, Maria Cinta Mañé, Josefina Mutgé, Sebastià Riera, Manuel Rovira, eds., CSIC, Barcelona, 2007, pp. 249–250.
- 214 Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 2, p. 309.
- 215 Rafael Gallofré, José Trenchs, “Almirantes y vicealmirantes en la Corona de Aragón”, *Miscel·lània de Textos Medievals*, 5 (1989), p. 123.
- 216 ACA C, reg. 952, f. 150r.
- 217 “Crònica del racional”, p. 130.
- 218 Maria del Carmen Álvarez Márquez, *La Baronía de la Conca d’Òdena*, Fundació Noguera, Barcelona, 1990, p. 202.
- 219 Antonio Huici, ed., *Colección Diplomática de Jaime I el Conquistador*, La Voz Valenciana, Valencia, 1919, vol. 2, p. 92.
- 220 Francesc Carreras Candi, *Miscelanea històrica*, Imprenta de la Casa Provincial de la Caridad, Barcelona, 1906, vol. 2, pp. 37–56.
- 221 *Gesta Comitum barcinonensium*, Louis Barrau Dihigo, ed., Jaume Massó Torrents, Institut d’Estudis Catalans, Barcelona, 1925, p. 62.
- 222 Albert Benet, *Històries insòlites*, Edicions Parcir Selectes, Manresa, 1992, pp. 92–93.
- 223 Flocel Sabaté, “Poder i territori durant el regnat de Jaume I. Catalunya i Aragó”, *Jaume I. Commemoració del VIII centenari del naixement de Jaume I*, Maria Teresa Ferrer, ed., Institut d’Estudis Catalans, Barcelona, 2011, vol. 1, pp. 71–80.
- 224 Flocel Sabaté, “El poder soberano en la Cataluña bajomedieval: definición y ruptura”, *Coups d’État à la fin du Moyen Âge? Aux fondements du pouvoir politique en Europe occidentale*, François Foronda, Jean-Philippe Genet, José Manuel Nieto, Casa de Velázquez, Madrid, 2005, pp. 484–498.
- 225 “los cavallers de Catalunya volien mal a l’infant En Pere per ço com ell no volia sofrir los mals que els cavallers faïen en la terra; e aucceïen e eixorbaven les gents de la terra, e robaven los camins e sofrien los homeiers e els robadors”. Bernat Desclot, *Llibre del rei en Pere*, chap. LXVIII (*Les quatre grans cròniques*, Ferran Soldevila, ed., Editorial Selecta, Barcelona, 1983, p. 456).
- 226 “E l’infant En Pere vedava’ls-ho aitant com podia e els ne castigava dels pocs tro als majors, e quan ne podia negun pendre. Sí que per aquella raó pres En Ramon Guillem d’Òdena, qui era del gran llinyatge de Catalunya, e el féu negar en la mar”. Bernat Desclot, *Llibre del rei en Pere*, chap. LXVIII: *Les quatre grans cròniques*, Ferran Soldevila, ed., Editorial Selecta, Barcelona, 1983, p. 456.
- 227 Ferran Soldevila, “Una al·lusió del trobador Bernat de Rovenhac”, *Revista de*

Catalunya, 5 (1926), pp. 497–505.

- 228 Miquel Coll i Alentorn, “Guillem I i Ramon Guillem II d’Òdena”, *Estudis d’Història Medieval*, 4 (1971), pp. 17–18.
- 229 Joaquín Yarza, “Despesas facen los omnes de muchas guisas en soterrar los muertos”, *Fragmentos*, 2 (1984), p. 6.
- 230 Anna Maria Álvarez Fortes, *El sentit de la mort en l’Elx medieval. Un llibre de clàusules testamentàries de l’església de Santa Maria (1294–1444)*, Institut de Cultura “Juan Gil-Albert” de la Diputació Provincial d’Alacant, Alicante, 1997, pp. 76–82.
- 231 Álvarez Márquez, *La Baronia de la Conca d’Òdena*, p. 203.

11 The application of the death penalty

The display of the body

The public admonition inherent in hanging justified the permanent display of the body, without it being taken down from the gallows. This macabre show would serve as an example and dissuade the perverse, as King Peter the Ceremonious explained in 1341: “perversorum exemplo debent cunctorum oculis publice subjacere”.¹ This was a general practice in Europe, and involved transferring the bodies from the central place of execution in the town to a place outside it for permanent display. In Périgueux, for example, they were taken to Écourneboeuf, two kilometres to the south-west.² The idea of this was that they would be seen by travellers, so that the paths were often accompanied by bodies hanging from the gallows, as shown in many images of landscapes from this epoch.³

In some cases, in an attempt to relate this exemplarity with the site of the crime, the display could be centred on the permanent exhibition of the head of the culpable. This was the case in 1391 with Huguet Maguessa. After being executed in front of the house where he had committed the crime, his head was left in the window that he had used to enter the house of the notary Berenguer Badorc with the intention of extorting and robbing him. Some objects used by the criminal, such as a rope ladder and the bar to lever and force open the window, were also exhibited together with his head:

He was sentenced to lose and have his head cut from his shoulders, which was cut off in front of the door of the house of said Berenguer Badorc, which is near the Born and that was hung with a rope by the left ear put high in the window of the antechamber of the room where said Berenguer was sleeping through which window the said man entered the day or night he entered in the said house and was hung one rope ladder and one bar that the said thief had used.⁴

Displaying the culprit where the crime had been committed was designed to foster an exemplary character, and was based on the seriousness of the offence, that the body displayed in an unusual place was that of someone who had committed a serious crime in the same

place. This could even happen in cases of non-judicial deaths. In 1372, the deputy to the vicar of Lleida (*lloctinent del veguer i cort* in the official terminology) and two of the city's councillors (*paers*) went to the neighbouring town of Almacelles, in the area linked to Lleida, at a time of serious tensions between factions and outlaws (*bandejats*), people wanted by the justice of Lleida but who flaunted their impunity in the nearby non-royal jurisdictions. The meeting caused a great commotion in Lleida, because the four fugitives wounded one of the *paers*, Domingo Montsuar, a member of one of the leading bourgeois lineages in the city. In the scuffle, one of the attackers was killed, and the royal jurisdictional official later requested the city council if he should hang this already-dead culprit where he had committed the assault: "and now he demands what to do, if they wish to hang the dead man or what to do, so he asks to be informed about what they agree to do".⁵ The response was clear. Not to hang him but rather to put him on a pole at the place of the attack, to make the serious crime he had committed well-known and as an example for the society:

They agree that this man who is already dead cannot be hung but, given that he committed so huge and ugly a crime against the councillor, a pole must be fixed in the place where the wounds were done and that he will be put in that pole to exemplify and that it will be well-known that he had committed this crime, and that no other sentence will be done.⁶

The municipal government emphasised this seriousness, firstly because it had called out the urban militia on hearing about the events and as it later began proceedings against one of those detained for lese-majesty⁷ given the position of the person wounded, as a city councillor, defined as equivalent to a king and a city civil servant: "que y haje crim de lesa magestat per ço que les nafres són feyes en la persona del paher de la ciutat, qui és official del senyor rey e de la ciutat".⁸ This councillor was also compensated financially for the loss of his horse and for his care ("per lo dampnatge que ha pres").⁹ The display of the dead culprit in the place of the events, although he was not executed there, also served the same deterrent function.

The purpose of this was to prevent death from releasing the culprit from the shame and humiliation that remaining exposed on the gallows meant. In 1457 in Barcelona, in the setting of the jurisdictional disputes between the city and the neighbouring lords, the urban militia was called out against a baron, Pere de Castellbell.¹⁰ He had led a force of between twelve and forty men to Caldes de Montbui, an important town in the north of the neighbouring region of Vallès¹¹ where, due to an epidemic in Barcelona, there were some notable women ("algunes notables dones"). The men under the baron

used trickery—"with false forms, pretending to give a letter to her"—to abduct Isabel, the young widow of Joan Romeu, a leading person in the city.¹² Although the person responsible had died and was an important baron, it was decided to use the occasion to display his body in the city as a deterrent. So, the vicar ordered him to be taken in a coffin to Barcelona and be displayed, although fragmented, at the so-called *Portal Nou* (New Gate) of the city:

On the 15th of October the urban militia was called out against micer Castellbell because he kept honourable women furtively, and on the 16th, the urban militia left the city under the flag of Barcelona and on the 27th the army came back and the vicar brought the women. On the 4th of November, they brought the body of Castellbell dead in a box, and the vicar, by the power of the urban militia, ordered it disaggregated and the body taken out of the New Gate.¹³

This way, the city also displayed its power, controlling the vicar, the justice and norms to protect its leading citizens. The king did the same in his domains. With the aim of displaying his power in his chronicle, Peter the Ceremonious explained how he put an end to the Union revolt in the mid-fourteenth century in Saragossa and Valencia by applying the death penalty to the leaders and immediately putting them on display in Saragossa, where he highlighted that he had decided the sentence in the royal palace and that the bodies were immediately exhibited in the main points of the city: "This sentence was given by ourselves in the Royal palace of the Aljaferia and the condemned were taken out the Aljaferia and they were hung a part in the gate of Toledo and the other parts in other places in the city".¹⁴

In all cases, it was considered enlightening to show what happened to he who offended. So, the usual way to do this was to exhibit the body on the gallows, but no longer in the central place where the criminal had been executed. About a day after the execution, everywhere bodies was taken down and transferred to the exterior gallows,¹⁵ the ones that fulfilled a symbolic function on the limits of the municipality.¹⁶ There, the body was hung permanently. This was done without any ceremony, normally by three or four men, always of low social status, hired specifically for the purpose,¹⁷ and generally led by a jurisdictional official. They would be accompanied by a carpenter if it were feared that the gallows needed fixing. This happened in Manresa in 1447. When the body of a thief was transferred from the gallows in the main square to those situated in Puig Bon Grau, on the way to Barcelona, the subvicar (*sotsveguer*) was followed by a carpenter together with the personnel who took the mortal remains there.¹⁸ The jurisdictional courts, or the municipalities in the western areas which maintained strong dominance over the legal process, had to pay for the material required, which always

included new ropes. In Tortosa, in 1392, it cost 12 florins for a sergeant and his companions—"sos companions"—, to take down two men ("taking down two men who had killed the youth and take them to the gallows of Vallsera"), plus a shilling for the ropes, which made a total of 6 pounds and 12 shillings.¹⁹

In Barcelona, the people initially contracted were looked down on for doing this, so it soon became established as a task for *moros* (Moors). In 1357, the cost of the above-mentioned execution of a forger included payment to 4 "Moors" who took the body down and transferred it to the display gallows, plus the cost of the noose—"given to four Moors who took him down and took him to Montjuïc, 8 shillings; and another noose with which he was tied, 5 pence"—, totalled less than a pound, precisely 19 shillings and 4 pence: "E axí són XIX sous, IIII diners".²⁰ Despite his low status, the executioner in the capital aspired to obtain the exclusive right to this activity. This was established around 1375, although it was not until the beginning of the last decade of the century that a price was set at 22 shillings for each execution and 11 for the transfer of each body. Only in the clear case of illness could he be substituted, in which case he always ceded the work to characters of low status who received the same salary. This happened in 1394, when due to the illness of the executioner, the vicar's court contracted an old slave to take down, transfer and rehang a body: "Lluís Joan, of a lineage of Tartar freeman, moved Ramon Ricart who was hung in the street of Vigatans to the gallows outside and did so because the executioner was ill".²¹

The gallows for displaying bodies were always very specific and traditional, everywhere clearly visible from the roads, either at the limits of the municipality or near the town. In Barcelona, in the fourteenth century, the gallows on Montjuïc received 55% of those executed, combined with those in Sant Andreu, which took around 30% and the ones in Sant Martí, which was the destination for some 7%, the rest being sent to other gallows *deffora* (outside).²² In 1445, the gallows in Sant Andreu de Palomar were moved from their initial location next to the Horta stream—"prop la riera de Horta"—to a more visible and prominent place on the edge of the limits. This was the Finestrelles Pass,²³ close to a busy route, the road from the city to the interior of the country through the Vallès, right next to the existing gallows of La Trinitat.²⁴ Under similar criteria, in Cervera the majority of those hung were exhibited on the so-called gallows of *En Roure*; in Lleida those on the *Tossal dels Penjats* (Hill of the Hung People) and at Palomera, on opposite sides of the city. In Tarragona, the gallows were in the area of Terra Cavada, and in Tortosa, they were in the so-called place *d'en Vallsera*. The central position of some of these gallows made them compatible for use in the first place, like

in some cases in Barcelona. In Perpignan, the majority of those transferred were taken to the gallows at Vernet—*les forques reynals de Vernet*²⁵ whose proximity also meant that many executions were carried out there directly. On these occasions, there was no need to move the corpse, because the execution was done on these external gallows. That is what happened in Barcelona with the aforementioned high percentages of hangings on the gallows in Montjuïc and Sant Andreu. A place near the town could even be promoted as a kind of stable scaffold that fulfilled both functions, execution and exhibition. This became the norm with the stone gallows in Cervera in the second half of the fourteenth century.

The bodies had to be well secured because permanent exhibition was not compatible with the fragility resulting from their decomposition in the open air. Despite this, they often fell, which meant they had to be put back. In 1333, when the highest representative of the king in Catalonia—the *gerens vices gubernationis generalis in Cathalonia*—was in Cervera, he ordered that a body that had fallen be rehung on the gallows: “it had fallen from the gallows and thus the noble Guillem de Cervelló who was here ordered it to be returned to the gallows”.²⁶ Similarly, Peter the Ceremonious gave a similar order in 1362 on discovering that two bodies that had been hung in Berga had been knocked down by the wind.²⁷ In these cases, thick ropes of the same kind as used for the hanging were now used to tie the bodies up.²⁸

The full powers the jurisdictional lords assumed over these bodies meant that the dead stopped being a *sui iuris*. Without rights, they could not make a will without express permission, nor possess their goods or even their bodies. This was a widespread legal principle, so similar behaviour can be found in other countries, like France.²⁹ This same premise led the Customs of Tortosa to state that the goods a prisoner had on him (usually clothes, a knife, a belt and shoes are expected) should go to the sergeants:

No man loses nor should lose clothes nor other things for any crime for which he has been accused nor condemned, unless he is condemned to death and that he dies. Then, when he is condemned to death and dies hung or dragged, or another way, all the clothes and the knife, and the belt and the shoes and everything he carries, except money, are and should be for the executioners.³⁰

In most places, it was the executioner who received these goods, as was the practice in the French regions.³¹

The holder of the jurisdiction enjoyed full powers over these bodies, who had forgone their own rights, and only he could allow them to be taken down and buried. The sovereign assumed this power to grant burial to those condemned to death, “ad regalem preheminenciam

competere solummodo dinoscuntur”.³² That is why relatives and friends of the dead requested licences from the king to “deponi a furca et tradi sepulture”,³³ paying the costs to receive the corresponding royal *gratia*. Only when the body was in a very bad state and nobody reclaimed it, was it buried. This was done without much care by the court executioners, as shown in Tarragona in 1372, when a sergeant, Marc Dertosa, was sent to bury a body which had fallen—“to bury a hung body that had fallen from the gallows of Terra Cavada”, for which he was paid one shilling.³⁴ Before reaching this state of absolute deterioration, the body may have hung for a long time. At the end of the fifteenth century or the beginning of the next, Peirot Miquel hung more than a year in the gallows of the mountain pass of Madres in the jurisdiction of Llançà.³⁵

In this context, and that of the tensions between factions, on occasions some bodies were supposedly stolen by relatives or friends. Given the punishment that they risked for doing so, this was always done in secrecy. It also led to an immediate investigation by the ordinary officers, accompanied by the local magistrates if they took part in the exercise of justice. All the investigations started with the family and faction of the dead person. For example, in Cervera in 1337, two councillors, together with servants—*macips*—, went with the vicar to the nearby villages of Montfalcó and Les Oluges, which were defenders of the man whose corpse had disappeared: “with the vicar they went to Monfalcó and Oluges to make enquiries about who had taken down the hung person from the Roure’s gallows”.³⁶

The same climate of tensions explains that, more often, the bodies were attacked, regularly harassed in the same place. A body that the soul had abandoned and which was possessed by the corruption of the flesh, was still part of the memory and honour of its owner and, with that, of his lineage. This explains the different outrages that were also committed against the dead in other countries.³⁷ That is why, in Barcelona, in 1376, people described as bad persons took down a hanging body.³⁸ The executioner was ordered to rehang it, and, as well as the hangman’s rope, he needed another to tie the body: “hangman’s rope and a rope to tie”.³⁹ The state of a body that had been taken down intentionally, sometimes found naked, reinforces suspicions of motives ranging from theft to personal vengeance. This can be seen in Perpignan in 1373 to justify the expense of the 6 shillings that were given to the executioner, who, as was the norm in Roussillon, as well as the essential ropes and noose, was given the corresponding gloves:

The said vicar gave to the executioner for one man called Tomeu Mir, who had at night been taken down from the gallows of Vernet and who had been stripped, who was punished by the said court, and after

he was hung again on the gallows by the said executioner, for the ropes that the said executioner had bought with which he rehung him on the said gallows of Vernet, cost between gloves and ropes to go up on the gallows, 6 shillings.⁴⁰

Prolonged exposure meant serious health problems. The smell alone justified placing the gallows outside populated areas. Bearing in mind that nature was envisaged as a combination of earth, fire, water and air, polluting these elements could be very serious for public health.⁴¹ The series of periods of high mortality in the second half of the fourteenth century highlighted the seriousness of polluting the air. That is why all municipal governments took measures,⁴² many focused on ordinances that prevented activities that contaminated the air or water,⁴³ thus moving towards a stable system of public health.⁴⁴ These municipal ordinances were intended, for example, to prevent the air from being polluted by the smell of animals like the pigs that lived within the town,⁴⁵ the blood from the bloodletting by barbers in front of their establishments,⁴⁶ rotten products from the market or the bodies of animals like dead cats in the streets.⁴⁷ The rotting bodies on the gallows could give rise to the same risk of infection, which is why the councils adopted explicit measures if there were any danger in that sense. In some cases, the bodies even had to be moved again to more distant gallows, as in 1391 in Tortosa, where the council paid 5 florins to have a body taken from one gallows to another because of the smell: “to Miquel Maestre and his companions who took the body from the bridge where this body was hanging to the gallows of Vallsera, because it gave a great infection of smell”.⁴⁸

Given these drawbacks, landowners wanted to avoid gallows being built on their property, and this generated disputes and protests in various towns and cities. In Igualada, in 1400 the municipal council acquired a piece of land from Guillem Rovira defined as “a piece of my land partly planted with vines and partly for planting”,⁴⁹ precisely because they built the gallows there: “on that piece of land the gallows of the said town were built”.⁵⁰ The place, on Puig Venrell, was near an important fortified farmhouse,⁵¹ well separated from the centre of the town, on the edge of the small limits of Igualada,⁵² before the boundaries of the neighbouring limits of the castles, with which there were ongoing jurisdictional conflicts,⁵³ and clearly visible above one of the main access roads to the town, so that it fulfilled all the symbolic indicators of the gallows.⁵⁴

In other cases, the instruments of execution were moved after negotiation. In Tàrraga the gallows built at Mor were easily visible near a major road to the north, because Mor was a former *quadra*⁵⁵ a sub-district that marked the north-east limits of the town.⁵⁶ However, they were very close to the farmhouse belonging to Guillem de

Guadalons, who complained in 1322 about the bad smell he had to put up with. This situation changed the following year when he obtained authorisation from the king to transfer the gallows to a point further away that he also owned.⁵⁷ Even in more specific cases, access to the monarch could facilitate compensation. In 1345, the widow of the notary from Perpignan, Ramon Bou, obtained compensation from the king because “fuerunt erecte sive plantate furche” in a vineyard belonging to her, where someone was hung on orders from the bailiff of the town. Peter the Ceremonious ordered the procurator of the counties of Roussillon and Cerdanya to pay 10 pounds to the widow, “na Tolosa”.⁵⁸

The usual coexistence with domestic animals, beginning with the dogs that roamed freely among the population, aggravated the situation.⁵⁹ Dogs, attracted by the smell, tried to get to the bodies, sometimes managing to tear off, eat and scatter fragments or take parts of the rotting bodies into the towns,⁶⁰ which is very similar to what happened in other countries.⁶¹ Various wild animals, including carrion-eating birds and the usual wolves and foxes, also contributed to the destruction and scattering of the bodies, again like in other countries.⁶² In some places, it was feared that hanging bodies would attract wolves down from the mountains, an eternal concern in Tortosa.⁶³

Consequently, the gallows outside the towns came to be surrounded by walls to prevent animals from getting in. This was again in line with the solutions adopted in other countries.⁶⁴ In 1349, the municipal council in Lleida agreed explicitly to enclose the gallows: “some one would think it good that the gallows be walled in, agreeing with the council that they be walled and that be accepted by the executors what that cost”.⁶⁵ Similar measures were taken in Barcelona with the gallows of La Trinitat, near the chapel of the same name, at a high point close to a major route (*apud collem de Finestrellis territorii Barchinone*)⁶⁶:

In the semester 26 of Miquel Aguilar as municipal accountant in the year 1382, stated that the gallows of the Trinitat were made of stone with closed walls because of the hounds, and wild beasts, at a cost of 131 pounds and. 12 shillings. 9 pence, through a collector of donations, and the city paid the rest, that was 54 pounds, 12 shillings, 11 pence.⁶⁷

In fact, the wall was insufficient if there was no gate. That is why the local government of Tortosa agreed in 1379 to take some gates to the gallows of Vallsera in order to stop the activities of the dogs and wild beasts: “to the gallows of Vallsera some gates so that the dogs and wild beasts could not enter”.⁶⁸ The council spent 5 and a half shillings on this: “that were given to Domingo Ferrer, carpenter, who made said

gates and put them on the house of said gallows to close them”.⁶⁹ Before the end of the fourteenth century, in the city of Valencia the place to display the executed was defined by an enclosure, with a wall and gates, with masonry gallows, with three verticals poles in a triangle crowned by thick beams that held up the bodies.⁷⁰ They had to be well protected but at the same time very visible places, especially for those travelling the paths to the city. It is significant that, in 1445, Barcelona council ordered the gallows of Sant Andreu to be moved from the place near the river (“prop de la riera d’Horta”) to a more strategic place in the Finestrelles Pass. To this end, the council contracted two master builders—“dos mestres de cases”—to build a so-called house of the gallows for hanging criminals: “the house with the gallows where the criminals are hung”.⁷¹

The humiliating and enlightening aspect of this display was even more impressive if fragments of the body were duly distributed to symbolic places. That meant amputating parts of the body, also in public. This was a task carried out by the executioner with an axe. His efficiency depended on his skill and the state of the tool, which was always the responsibility of the corresponding court. That is why often before carrying out the sentence, this was checked and, if needed, the court paid for it to be sharpened, that is: “have the axe of the court sharpened”.⁷² Once the body had been quartered, it had to be displayed, which meant that poles, ropes and a series of metal pieces, basically nails, hooks and rings, were needed. In one case in the Vallespir in 1456, after spending one and a half shilling on ropes, four poles for hanging the quarters were added—“four poles that served for hanging the quarters”—, which cost 6 shillings, at 1 and a half each, to fix the pieces with seven iron rings—“seven iron rings that served for the said post”—at 6 pence each, and with four iron hooks for sticking the quarters on the poles—“four iron hooks that served for sticking the quarters to the poles”—, 6 pence each, still needing four nails—“III claus”—at 1 penny each.⁷³

This type of exhibition was more frequent in urban settings, which tallies with the higher number of crimes and executions. Given this frequency, many towns and cities had a basic infrastructure in place, so the usual activity was limited to transporting the fragments of the person executed in esparto baskets and hanging them with ropes. In Perpignan, this task was usually carried out by simple sergeants, helped by a hired draught animal. In 1399, when the remains of three men had to be displayed, 9 shillings and 9 pence were paid for the baskets and ropes— “baskets and ropes that served the said justice” —⁷⁴, 3 pounds and 12 shilling to the four sergeants who displayed the fragments, and 6 shillings for hiring the animal used to carry the fragments while they were allocated: “besides the so-called four

sergeants one man was paid for the hire of an animal that carried the cartons of the said three men to certain places where they were secured to poles".⁷⁵

In an attempt to make them more of a deterrent, some sentences singled out the guilty party whose crime was considered most serious to be quartered and the fragments duly distributed. This was what was ordered after the assault on the Jewish quarters in 1391. Two of those sentenced, after dying on the gallows were quartered, the pieces being strategically distributed: one in front of the entrance to the Jewish neighbourhood and the bailiff's court, and the other split between the prison and the vicar's court.⁷⁶

In some cases, the fragments were concentrated in specific points. One such was the above-mentioned 1457 case with the remains of Pere Castellbell, at the city gate where one had to pass to go to the region of Vallès towards the scene of the events and, further on, the lands and domains that belonged to the executed man.⁷⁷

Occasionally, the symbolism could be concentrated in a single fragment of the body. Thus, with the same moralising purpose, in Barcelona, in January 1392, and continuing to sentencing of those considered responsible for the attacks on Jewish neighbourhoods during the previous summer, it was decreed that the head of the person considered responsible for inciting the slaughter in the city of Majorca⁷⁸ should be visibly hung from the mast of a ship sailing to the island, whose inhabitants could easily see the punishment imposed:

Eight persons were sentenced to death by His Majesty the King of which at the request of Her Majesty the Queen and some nobles and knights five were restored who did not meet their deaths. And two of the three who met their deaths were hung, one at the gate of the Boqueria and the other in the New Square (*Plaça Nova*). And the third who was called Benviura and was said to have caused the riot against the Jews of Majorca was beheaded in the Porch Square (*Plaça del Portxo*), the head of whom was placed at the top of a mast of a ship on the trade with Majorca and the body remained in the said place.⁷⁹

In general, however, the display of the quartered body was adapted to the site of the crime. In some cases, it was taken far, as in 1437, when fragments were taken from the Vallès to Camprodon in the Pyrenees.⁸⁰ The moralising and intimidating principles of quartering could mean that where there were no large places, the pieces were scattered around the region, so the fate of those who committed a crime considered so atrocious could be seen by the greatest number of people. This was what the governor of the counties of Roussillon and Cerdanya ordered in 1457 with the body of a woman convicted of having poisoned her husband. The fragments of her body were placed where she had committed the crime, in the capital of the district, Els

Banys (currently Amélie-les-Bains) where the woman had been arrested 29 days earlier, at one of the most prominent places in the region, between Codalet and Arles, and the busiest point of the district (the *sotsvegueria de Vallespir*) beside the important public thoroughfare between Barcelona and Roussillon. The hangman (who had to be supplied with the corresponding gloves)⁸¹ went from Perpignan to carry out the operation together with two sergeants and two servants, presided over by the subvicar of the Vallespir, as he himself wrote:

I went to the place of El Voló with the said executioner to take a quarter of the said woman, as was ordered by sir the governor, that the four quarters of the said female be divided and placed in four places and one quarter was put and hung in the limits of said place of Voló on the royal road that goes to Barcelona, there where she had done the deed and the other two quarters were placed one in the limits of Els Banys and the other in the limits of Codalet near the town of Arles.⁸²

The quartering of the woman of Vallespir happened after she was dragged tied to the post—also *post* in the old Catalan the document is written in—, and having had her throat slashed, for which he had to acquire a sharp enough knife, as the subvicar explained to justify the 5 shillings spent: “I bought a blade which served for cutting the throat of the said woman”.⁸³ It stands out that, like her, the people of low social status whose throats were cut were usually given a punishment that implied greater torture. In fact, the sentence for the great majority of culprits that had to be cut up to be displayed still ordered that they had to die quartered, so they were not hung. Indeed, they were progressively fragmented and generally had their throats cut at the end before the body was quartered. This way, the route through the main streets of the town or city could be followed and it usually included the place where the crime had been committed.

That was the case of a slave who killed his master in Lleida in 1456. He was dragged through the mob and both his hands were cut off in front of the house where he committed the murder, and then he his throat was slit and he was quartered in the main square. The seriousness given to the crime was even clearer when the body of the prisoner was quartered, which made it easy for the pieces to be displayed in the busiest points of the public thoroughfares into the city, as the sentence still envisaged for the body of this slave in Lleida⁸⁴:

We judge and condemn the said Gorgi accused under his own merits and by his own confession, that he be firstly placed in a pannier and then dragged around the usual places of the said city, and when in front of the door where the said crime was committed, both his hands shall be cut off. And after he shall have his throat cut and be

quartered in the Main Square of *Sant Joan* (Saint John), and the quarters of him shall be placed that is, the first in the sandy area beside the bridge on a pole, the other in the market place of *El Carme*, the other at the threshing grounds of the Friars Minor, the other in the Moorish Cemetery and the head and the hands be put outside the gate of *Sant Gili* (Saint Gili). And the giblets be placed in a basket and these be placed on a pole outside the gate of *Sant Martí* (Saint Martin).⁸⁵

The sentence sometimes specified that the exhibitions of fragments within the city should be brief and that all the pieces had then to be transferred to the external gallows. This is done in Lleida in 1377 with the body of Gueraldona, a woman accused of adultery and of murdering her husband with her lover. According to the sentence, after being dragged, her throat was slit and she was cut into four pieces in a public square. Some of the fragments were placed in the same places that would receive the remains of the above-mentioned slave, Gorgi, the following century, because these were the usual ones, being among the busiest points—the Areny, beside the main bridge to enter into the city—and another intended to be humiliating, like the Muslim and Jewish cemeteries, (the latter close to the threshing floors of Saint Thomas),⁸⁶ while her head was placed at the door of her house, with a full sense of reparation. However, one day later all the remains were transferred to the usual exhibition gibbet, as provided for in the sentence:

We judge that said Gueraldona be stretched behind an animal in a basket and taken all round the city, as is usual, and that after, in Chicken Square (*Plaça dels Pols*), she be quartered and done with these 4 quarters, of which one shall be placed in the Areny of the Main Bridge, the other in the Muslim cemetery or in that area, the other in the threshing floors of Saint Thomas or in those areas and the other in the parts of Saint Gili and the head at the door of her house where the said Gueraldona was and there the said quarters and head be for one and hung on the gallows. And with this the said Gueraldona condemned with this sentence.⁸⁷

Thus, the usual practice was for the bodies hung from the gibbet to end up on the display gallows while those destined to be shown fragmented did not arrive entire to the gallows, and in some cases, just a part of the body could be exhibited on the gallows. This can be seen in the collective execution carried out in Barcelona in December 1391. By sentence from the king, eleven people accused of having taken part in the attack on the Jewish quarter and a Genoese corsair were executed. These were in addition to eleven others who had previously been hung or quartered on instructions from the governor of Catalonia at seven points around the city. Firstly, all the executions were spread around the city, filling it with macabre symbolism. The

places chosen were always central but not lacking in symbolism. Among the killings ordered by the king, the corsair was hung alone on the gallows of the sea, near a drain. Nearby, two others were hung in the Porch, two more on the Carbó gallows, two in the *Plaça del Blat* (Wheat Square) and two on the Campderà bridge, and the other in the *Plaça Nova* (New Square). The two considered most serious were not hung but directly quartered in two central squares: one in *Sant Jaume* (Saint James), in front of the Jewish quarter, and the other in the *Plaça del Blat* (Wheat Square). Two quarters of the latter were displayed on the gallows, so marking the inherent sense of these, and the other pieces were put in significant places, like the head being left at the entrance to the Jewish neighbourhood or a fragment placed in one of the notary offices with documentation affected by the assaults: The said Majesty (King) sentenced 12 people of whom there were 11 from the riots and robbery of the Jewish ghetto and the 12th was a Genoese corsair and of said 12, nine were hung by the neck that is two in the Wheat Square and two at the drain of the Porch and two on the gallows of El Carbó and two at the bridge of Campdera and one in the New Square and two quartered, one at the gate to the Jewish ghetto in Saint James and here were placed the head with the upper quarter and the other upper quarter, and the two lower quarters of the notary P. Rovira, before the court of the bailiff; and the other was quartered in the Wheat Square and two quarters were placed in the court of the vicar and two quarters at the gallows in the Wheat Square. And the said corsair was hung on the gallows of the sea near said drain.⁸⁸

In any case, the fact that the quartering was always done publically was a way to increase the ignominy of the culprit. There could be special interest in vilifying the defendant, especially when political motivations were involved. John I had capital punishment applied to the senior officials who had accompanied his stepmother, Queen Sibila, when Peter the Ceremonious was dying in January 1387,⁸⁹ accusing them of lese-majesty for having abandoned the king. However, the punishment was applied in a different way. On the 29th of April, Berenguer d'Abella and Bartomeu Lunes were decapitated, the usual way to execute a nobleman.⁹⁰ Having separated the head from the body, the former could receive a specific humiliation exhibiting in one of the main squares of the city the head impaled through the mouth during all the day, until the evening. However, it would be worse for the latter, who the new king had had bad relations with, as we saw above when commenting on the sentence. After the decapitation, the body was immediately quartered: "in the square of Sant Jaume the head of the noble Berenguer d'Abella knight was taken and Bartomeu Lunes was quartered".⁹¹ The remains of Bartomeu Lunes

were distributed and exhibited, his bowels and guts were left near his house. Finally, understanding that these actions had boosted the power of the sovereign enough, he showed his magnanimity by allowing that both could recover their remains to be buried in a Christian place, respecting the executed men's devotion to the mendicant orders, one to the Franciscans, the other one to the Dominicans, as explained by the historian Josep Maria Roca:

The body of Lunes was, moreover quartered, a quarter, with the entrails and guts in a basket, being displayed in the New Square, near his home, another in the Wheat Square, another on the Campderà Bridge and the other in the Hill of the Falcies. The head of Abella, impaled through the mouth with a stick of green poplar, remained in the Saint James Square until the evening, being then buried, together with his body in the Minor Friars Convent. The remains of Bartomeu Lunes were buried in the church of the Predecessor Friars.⁹²

The display of the body became a humiliation easily applied to those who, having been sentenced, had lost all rights over their own bodies, which were now in the hands of the holder of sovereignty. The later used this control to invoke terror, in the reiterated expression of the epoch, understanding that the social order and respect for the divine mandates were safeguarded this way. However, for those who the gallows, amputations and display of cadavers and rotting fragments of bodies did not infuse with enough terror, there was yet another greater punishment for the worst imaginable crimes, according to the beliefs of the time: the pyre.

Notes

- 1 ACA C, 1057, f. 83r.
- 2 Mathieu Vivas, “Déplacer les ‘mauvais morts’ au Moyen Âge (fin VI^e–XIV^e siècles)”, *Déplacer les morts. Voyages, funérailles, manipulations, exhumations et réinhumations de corps au Moyen Âge*, Delphine Boyer-Gardner, Mathieu Vivas, eds., Ausonius Éditions—Maison des Sciences de l’Homme d’Aquitaine, Bordeaux, 2014, pp. 74–75.
- 3 See the fresco of Saint George and the Princess by Pisanello in 1436 in the church of Sant’Anastaia in Verona, for example.
- 4 “Fo li dada sentència de perdra e ésser-li tolt e levat lo cap de les espatles, lo qual li fo tolt denant lo portal de l’alberch del dit Berenguer Badorch, que’s prop lo Born e aquell penyat ab una corda per la jorrella squerra fo posat alt en la finestra de la reacambra de la cambra hon lo dit Berenguer jahia per la qual finestra lo dit hom se cala lo die o nit que entra en lo dit alberch e fo hi penyada I escala de cordes e I parpal que’l dit ladre hi havia mes”. Frederic Schwartz, Francesc Carreras, *Manual de novells ardis vulgarment apellat dietari del antich consell barceloní*, Imprenta de’n Henrich y Companyia, Barcelona, 1892, vol. 1, pp. 12–13.
- 5 “e ara fa los saber què faran, si penjaran l’om mort o que y faran per que’ls plàcie que acorden que’ls faran saber”. AML, llibre d’actes 402, f. 29r.

- 6 “acordaren que aquest hom qui és mort no's peyg, mas però per tal com ha comès tan gran crim e tan letg contra lo paher, que sie ficat un pal en aquell loch on les dites nafres se feeren e que sie posat en aquell pal per exemple e que sie notori que aquest ha comes aquest crim, però que no li sie donada altra sentència”. AML, llibre d'actes 402, f. 29r.
- 7 “que la cort face lo procés de lesa magestat”. AML, Llibre d'actes 402, f. 29v.
- 8 AML, llibre d'actes 402, f. 30v.
- 9 AML, llibre d'actes 402, f. 43r, 36r., 56r, 65v.
- 10 Agustí Duran i Sanpere, Josep Sanabre, eds., *Llibre de les Solemnitats de Barcelona*, Institució Patxot, Barcelona, 1930, vol. 1, pp. 235–236.
- 11 Enric Moreu Rey, *Caldes de Montbui. Capital degana del Vallès*, Rafael Dalmau editor, Barcelona, 1964, pp. 18–36.
- 12 “ab maneres fictes, sots color de donar-li una letra”. Frederic Schwartz, Francesc Carreras, eds., *Manual de novells ardots, vulgarment apellats dietari del antich consell barceloní*. Imprempta d'en Henrich i Companyia, Barcelona, 1893, vol. 2, pp. 274–275.
- 13 “A 15 de octubre 1457, procés de sometent contra Mossèn Castellbell per haver forçívolment presa una dona de honor, y a 16 isqué la Bandera de la Ciutat, y a 27 tornà lo Stol y lo Veguer portà la dona, a 4 de novembre portaren lo Cors den Castellbell mort dins una caxa, y lo veguer per virtut del sometent, lo féu desfer y portar lo Cors fora'l Portal nou”. Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d'Henrich i Companyia, Barcelona, 1913, vol. 2, p. 312.
- 14 “aquesta sentència fon per nós personalment donada dins la dita Aljaferia e trasgueren los dits condemnats de la dita Aljaferia e foren penjats partida a la porta de Toledo e partida en altres llocs de la ciutat”. Pere el Ceremoniós, *Crònica*, chapter IV. 48; ed. Ferran Soldevila, *Les quatre grans cròniques*, Editorial Selecta, Barcelona, 1983, p. 1106.
- 15 Fidel de Moragas i Rodes, *L'antiga universitat de Valls*. Estampa d'Eduard Castells, Valls, 1914, p. 30.
- 16 ACA MR 1548, unnumbered.
- 17 ACA MR 1547, f. 9v.
- 18 Joaquim Sarret i Arbós, *Història de l'Estat polític-social de Manresa*. Imprempta i enquadernacions de Sant Josep, Manresa, 1925, pp. 83–84.
- 19 “despenjar los dos homens qui havien mort lo fadrí e portar a les forques d'en Vallsera”. ACBEB, clavari 29, p. 32.
- 20 “done a IIII moros que'l despenjaren e'l portaren a Muntjuhic, VIII sous; item una soga altre ab que'l ligaren, V diners”. ACA MR 1475–1, f. 79v.
- 21 “en Lois Johan de linatge de tartares franch, per ço com mudà en Ramon Ricart qui fo penjat al carrer dels Vigatans a les forques deffora e fo per ço lo morro de vaques era malalt”. ACA MR 1549–1, f. 60v.
- 22 ACA MR 1549–1, fol 60v.
- 23 Esteve Gilabert Bruniquer, *Ceremonial dels magnífichs consellers y regiment de la ciutat de Barcelona*. Companyia, Barcelona, 1913, vol. 2, p. 312. d'en Henrich i companyia, Barcelona, 1915, vol. 4, p. 298.
- 24 Bruniquer, *Ceremonial dels magnífichs consellers*, vol. 4, p. 297.
- 25 ACA MR 1524, f. 297v.
- 26 “fo caygut de les forques e puix lo noble en Guillem de Cerveyló que hic ere feu manament que'l tornassen a les forques”. ACSG, Clavari 1, f. 41v.
- 27 ACA C, 711, f. 110v.
- 28 ACA MR 1548, unnumbered.
- 29 In France, “when an accused is sentenced to death, his property is

confiscqués”) (“lorsqu’un prévenu est condamné à mort, ses biens sont confisqués”). Louis de Carbonnières: “La peine de mort devant la chambre criminelle du Parlement de Paris sous Charles VI”, *La peine. Discours, pratiques, représentations*, Jacqueline Hoareau-Dodinau, Pascal Texier, eds., Presses Universitaires de Limoges, Paris, 2005, p. 72.

- 30 “Nul hom no pert ne deu perdre vestedures ne altres coses per nul crim de què sia acusat ne condempnat, si doncs no és condempnat a mort e que muira. Car ladoncs, con és condempnat a mort e mor penjan o tiragassan, o en altra manera, les vestedures totes e el coltel, e la corrègia e les çapates e tot so que porta, eceptat diners, són e deven ésser dels saygs”. *Costums de Tortosa*, 9.2.9 (Jesús Massip, ed., *Costums de Tortosa*, Fundació Noguera, Barcelona, 1996, p. 416).
- 31 Nicole Gonthier, *Le châtimet du crime au Moyen Âge*, Presses Universitaires de Rennes, Rennes, 1990, p. 132.
- 32 ACA C, 1057, f. 83r.
- 33 ACA C, 207, f. 131v.
- 34 “per soterrar un penjat que era cahut de les forques de la Terra Cavada”. ACA, MR 1496, f. 12r.
- 35 Joan Badia-Homs, Enric Carreras, *Llançà a l’època medieval. Aportacions al seu estudi*, Edicions El Brau, Figueres, 1995, p. 183.
- 36 “ab lo veguer a Muntfalchó e a Uluya per fer inquisició qui avie despenjat ne levat de les forques d’en Roure”. ACSG, clavari 2, f. 19r.
- 37 Marta Madero, *Manos violentas, palabras vedadas. La injuria en Castilla y León (siglos XIII–XV)*. Taurus Ediciones, Madrid, 1992, pp. 87–88.
- 38 “a XXIII de uytubre despenjaren males persones”. ACA MR 1548, unnumbered.
- 39 “dogal e una corde per collar”. ACA MR 1548, unnumbered.
- 40 “Dóna lo dit veguer al morro de vaques per I hom apellat Thomeu Mir, que havien de nit despenyat de les forques de Vernet e aquell havien despuyllat, lo qual era stat penyat per la dita cort, e après fou tornat en les forques per lo dit morro de vaques, per les cordes que l dit morro de vaques havia comprades ab que l’a tornat penyar en les dites forques de Vernet, costa entre guans de doguals per montar alt a la forqua, VI sous”. ACA, MR 1524, f. 299v.
- 41 Brian Catlos, “Medicine and Medieval Mediterranean Culture and Society”, *Le Civiltà e la Medicina*, Monica Vicinanza, ed., Editrice Gaia, 2010, pp. 23–33.
- 42 Manuel Camps i Clemente, Manuel Camps i Surroca, *La pesta del segle XV a Catalunya*, Edicions de la Universitat de Lleida, Lleida, 1998, p. 58.
- 43 Flocel Sabaté, “Medieval Urban Identity: Health, Economy and Regulation”, *Medieval Urban Identity. Health, Economy and Regulation*, Flocel Sabaté, ed., Cambridge Scholars Publishing, Newcastle, 2015, pp. 10–11.
- 44 Dolly Jørgensen, “Sanitation and Civic Government in England, 1400–1600”, *Journal of Urban History*, 36/3 (2010), pp. 300–315.
- 45 ACSG, llibre del consell, 1400, f. 58r.
- 46 Segismon Cunill, “Ordinacions sobre bans y penes a Vich en el segle XIV”, *But-lletí del Centre Excursionista de Vich*, 5 (1925–1928), p. 117.
- 47 Teresa Vinyoles, *La vida quotidiana a Barcelona vers 1400*, Fundació Salvador Vives Casajuana, Barcelona, 1985, pp. 37–40.
- 48 “an Miquel Maestre e a sos companyons qui portaren lo penjat que penjava dellà lo pont a les forques d’en Vallsera per ço com donava gran infecció de poder”. ACBEB, Clavari 28, unnumbered.
- 49 “un tros de terra meua en part plantat de ceps y en part per plantar”. Joan Segura, *Història d’Igualada*. Ateneu Igualadí—Serppac, Igualada, 1978, vol. 2, p. 189.

- 50 “en lo qual tros de la terra foren construïdes les forques de dita vila”. Segura, *Història d'Igualada*, vol. 2, p. 189.
- 51 Flocel Sabaté, “Torre de Venrell”, *Catalunya Romànica*, Antoni Pladevall, ed., Enciclopèdia Catalana, Barcelona, 1992, vol. 19, p. 311
- 52 Flocel Sabaté, “Origen i context històric d'Igualada (segles X, XI i XII)”, *Basílica de Santa Maria d'Igualada*, Marta Crispí, Judith Urbano, eds., Bisbat de Vic, Vic, forthcoming.
- 53 Flocel Sabaté, “Igualada, carrer de Barcelona”, *Revista d'Igualada*, 4 (2000), pp. 7–17.
- 54 Flocel Sabaté, *La gent dels castells. Viure a l'esguard dels castells de la Conca d'Òdena a l'edat mitjana*, Montcalet, Igualada, 1999, pp. 60–63.
- 55 Flocel Sabaté, *Fiscalitat i feudalisme (Tàrraga, 1329: recompte i reestructuració)*, Rafael Dalmau editor, Barcelona, 1991, pp. 35–36.
- 56 Flocel Sabaté, “La castralització de l'espai en l'estructuració d'un territori conquerit (Urgell, Pla d'Urgell, Garrigues i Segrià)”, *Urtx*, 11 (1998), p. 14.
- 57 Josep Maria Segarra i Malla, *Història de Tàrraga amb els seus costums i tradicions*. Museu Comarcal de Tàrraga, Tàrraga, 1984, vol. I, p. 92.
- 58 ADPO 1B-97, f. 67r.
- 59 Flocel Sabaté, “Gran, Merlí, Amadis, Faisà i altres cans”, *La Corona Catalanoaragonesa, l'Islam i el món mediterrani. Estudis d'història medieval en homenatge a la doctora Maria Teresa Ferrer i Mallol*, Josefina Mutgé, Roser Salicrú, Carles Vela, eds., CSIC, Barcelona, 2013, pp. 618–619.
- 60 Salvador Sanpere y Miquel, *Las damas d'Aragó*, Imprenta de La Renaixensa, Barcelona, 1879, pp. 48–49.
- 61 Iñaki Bazán, *Delincuencia y criminalidad en el País Vasco en la transición de la Edad Media a la moderna*, Servicio Central de Publicaciones del Gobierno Vasco, Vitoria, 1995, p. 568.
- 62 In 1486 in Dijon, when a body fell from the scaffold, “the dogs, wolves and other beasts who devoured him” (“les chiens, loups et autres bêtes qui le devoraient et mangeaient”) appeared. (Nicole Gonthier, *Le châtement du crime au Moyen Âge*, Presses Univrsitaires de Rennes, Rennes, 1990, p. 131.
- 63 Albert Curto, Albert Martínez: “La presència del llop a l'antic terme de Tortosa durant la baixa edat mitjana”, *Acta historica et archaeologica Mediaevalia*, 20–21 (1999–2000), pp. 455–475.
- 64 This was also the solution adopted in other places, as in Sangüesa 1344, where a two and a half metre high wall was built: “rebuild the gallows of Sanguesa and enclose them with a wall of stone five ‘elbows’ high because the dogs brought down and ate the bodies of the men hung” (“reffazer las forcas de Sanguesa et çerrar las de paret de piedra en alto quanto 5 codos por razón que los perros darribavan eet comian los cuerpos de los ombres enforcados”). Marcelino Beroiz, *Crimen y castigo en Navarra bajo el reinado de los primeros Evreux (1328–1349)*, Universidad Pública de Navarra, Pamplona, 2005, p. 299.
- 65 “alguns tindrien per bé que les forques se tapiassen, acordà lo dit conseyll que sien tapiades e que sie acaptat de marmessories ço que costarà”. AML, llibre d'actes 398, f. 8r.
- 66 Josep Hernando, “La creu de terme de la Trinitat al coll de Finestrelles”, *Finestrelles*, 6 (1994), pp. 25–29.
- 67 “En lo semestre 26 de Miquel Aguilar Clavari en l'any 1382, apar com las forcas de la Trinitat foren fetes de pedra ab parets closes per causa dels cans, y bèstias feras, costaren 131 ll. 12 s. 9, y feu-las un devot de acaptas, y la ciutat pagà lo compliment que foren 54 liures, 12 sous, 11 diners”. Bruniquer, *Ceremonial dels magnífichs consellers*, vol. 4, p. 297.

- 68 “a les forques d'en Vallsera unes portes per ço com los cans e feres hi entraven”. ACBEB, clàvia 16, p. 123.
- 69 “que ha donats an Domingo Ferrer, mestre d'axa, qui feu les dites portes e les mes en la casa de les dites forques per tancadura”. ACBEB, clàvia 16, p. 123.
- 70 José Sanchis Sivera, *Vida íntima de los valencianos en la época foral*, Edicions Aitana, Altea, 1993, p. 97.
- 71 “la casa ab las forcas hont se penjan los facinorosos”. Bruniquer, *Ceremonial dels magnífichs consellers*, vol. 4, p. 298.
- 72 “fer esmolar la destràl de la cort”. ACA MR 1547, f. 98r.
- 73 “III pals qui serviren per penjar los corters”; “VII anels de ferre qui serviran a la dita post”; “III ganxols de ferre qui serviran a clavar los corters al pall”. ACA MR 1569, A-2, unnumbered.
- 74 “cabasses e cordes qui serviren a la dita justícia”. ACA MR 1528, f. 246r
- 75 “ultre los dits III saits foren pagats a I hom per loguer de una bèstia que porta los carters dels dits III hòmens en certs lochs on foren posats fermats en certs pals”. ACA, MR 1528, f. 246r.
- 76 “dos dels sentenciats, després de morts en la forca, per a major escarment, foren esquarterats, posant-se troços d'un d'ells davant la porta del Call juhich y de la oficina del batlle y los del altre en la presó o cort del veguer”. Francesc Carreras, *Evolució històrica dels juheus y juheissants barcelonins, Estudis Universitaris Catalans*, 3 (1910), p. 421.
- 77 Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 2, p. 312.
- 78 Carreras i Candi, *Evolució històrica dels juheus*, p. 422.
- 79 “Ffo dat juy de mort per lo senyor rey a VIII persones de les quals a prechs de la Senyora Regina e d'alsuns nobles y cavallers foren restaurades V que no preseren mort. E los II dels III que preseren mort foren penyats I al portal de la Boqueria e l'altre a la plaça nova. E lo terç qui era appellat en Benviura y havia segons se deya comogut lo avalot contra los juheus de Mallorques fo escapçat en la place del Portxo, lo cap del qual fo posat alt en una antena de I barcha del tràfeh de Mallorques e lo cors romàs en la dita place”. Schwartz, Carreras, *Manual de novells ardis*, vol. 1, p. 25.
- 80 ACA C, reg. 3131, f. 118r. Francesc Carreras y Candi, *La ciutat de Barcelona*, Establiment Editorial de Albert Martin, Barcelona, undated [1916], p. 576).
- 81 ACA MR 1569, A-2, unnumbered.
- 82 “Ané al loch del Voló ab lo dit botxí portar un corter de la dita dona, com axí fos ordonat per mossèn lo governador, que los III corters de la dita fembra fosen dividits e posats quatre lochs e fo posat e penyat un corter al terme del dit loch del Voló al camí Reall qui va a Barchinona, alà hon havia ffit lo mall e los altres II corters ffosen posats lo un dins en lo terme dels Banys e altre al terme de Codalet pres la vila d'Arles”. ACA MR 1569, A-2, unnumbered.
- 83 “comprí un coltell lo quall serví per degolar la dita dona”. ACA MR 1569, A-2, unnumbered.
- 84 Salvador Roca Lletjós, “Un procés d'esclau”, *Vida Lleidatana*, 4 (1929), pp. 272–273.
- 85 “Jutjam e condemnam lo dit Gorgi delat dessus per los mèrits seus e per la sua pròpia confessió, aquell ésser primerament més en un sarrió e aquell ésser arroçegat per los lochs acostumats de la dita ciutat, e com sie endret la porta hon lo dit crim ha comès, li sien levats ab dós los punys. E après que sia degolat e squarterat en la plaça major de Sent Johan, e los quartès de aquell sien posats ço és, lo primer en lo areny delà lo pont en un pal, l'altre en lo mercadal del Carme, l'altre a les eres de frares menós, l'altre en lo fossar dels moros e lo cap e les mans sie posat fora lo portal de Sent Gili. E les menúcies

sien meses en un cabaç e aquelles sien posades en un pal fora lo portal de Sent Martí”. Maria Dolors Farreny i Sistac, *Processos de crims del segle XV a Lleida: transcripció i estudi lingüístic*. Institut d'Estudis Ilerdencs, Lleida, 1986, pp. 65–66.

- 86 David Romano, “Fossars jueus catalans”, *Acta historica et archaeologica Mediaevalia*, 14-15 (1994), p. 300.
- 87 “Jutgam que la dita Gueraldona sie stiraçada a una coha de bèstia en una sària i menada per tota la ciutat, segons que és acostumat, e que après, en la Plaça dels Pols, sie squarterada e feyta de aquella IIII quarters, dels quals la I sie possat en l'areyn del Pont Major, l'altre al fossar dels sarrahins o en aquela partida, l'altre en les eres de Sent Thomàs o en aquelles partides e l'altre a les parts de Sent Gili e lo cap a les portes de casa sua hon estave la dita Gueraldona e que alí los dits quartés e cap estien per I dia e penjats en les forques. E en açò la dita Gueraldona sentencialment condempnam”. AML, Administracio de Justicia. Procesos de crims, A-7807, f. 117r-124r; Manuel Camps, *El turment a Lleida (segles XIV-XVII)*. Edicions de la Universitat de Lleida, Lleida, 1998, pp. 78–79.
- 88 “Lo dit Senyor (Rey) dóna sentència a XII persones de les quals ni hac de l'avalot e robament del call XI persones e lo XIIè era janovès cossari e dels dits XII foren-ne IX penyats per lo coll so és II a la plaça del Blat e II a la claveguera del portxo e II a les forques del Carbó e II al pont d'en Campdera e I a la plaça nova e II scortorats so és la I a la porta del call vers Sent Jacme e aquí foren posats lo cap ab lo quarter devant ab l'altre quarter devant, e los II quarters detrás a la scrivania d'en P. Rovira, devant la cort del batle; e l'altre fo scorterat a la plaça del Blat y foren-ne posats II quarters a la cort del Veguer e II quarters a les forques de la plaça del Blat. E lo dit cossari fo penyat a les forques de la mar prop la dita clavaguera”. Schwartz, Carreras, *Manual de novells ardots*, vol. 1, p. 23.
- 89 ACBEB Clavaria 23, p. 168.
- 90 “Crònica del racional”, p. 158.
- 91 “en la plassa de Sant Jaume fou levat lo cap al noble Berenguer de Apilia cavaller y fou scorterat Barthomeu Lunes”. Bruniquer, *Ceremonial dels Magnífichs Consellers*, vol. 2, p. 310.
- 92 “el cos d'En Lunes fou, además escorterat, exposant un quarter, ab les entranyes y budells dintre un cabaç, en la plaça Nova, prop lo seu alberch, altre en la plaça del blat, altre en lo Pont d'en Campdera y l'altre en lo Puig de les Falcies. El cap del Abella, empalat per la boca ab un pal vert d'alba, romangué en la plaça de Sent Jaume fins el vespre, essent després soterrat, junt ab lo cos en lo Capitol de Fra menors. Les despulles d'En Bartomeu Lunes se soterraren en la iglesia dels Frares Predicadors”. Josep Maria Roca, “La Reyna Empordanesa”, *Sobiranes de Catalunya*, Real Academia de Buenas Letras de Barcelona, Barcelona, 1928, p. 143.

12 The application of the death penalty

Death by fire

Burning someone alive became the worst of punishments. As mentioned, it was used for abominable crimes, especially those, like male homosexuality and heresy, that involved breaking the order created by God. Witchcraft would be added to these when it was presented explicitly as collaboration with the devil against God. However, this kind of application of death penalty was unequally distributed, so it always trapped the lower social sectors. Death on the pyre adopted the same formulae all over the country, and there was a specific scenario from start to finish, when all that remained were the ashes.

In general, when the sentence was death on the pyre, the execution was carried out as the natural compliance of justice, as indicated in Barcelona in 1359: “did justice to a Moor who was burnt”.¹ The execution was carried out after the pronouncement of the sentence and the arrival of the culprit at the pyre with his hands tied behind his back with thin ropes (*cordes primes*) and normally on the back of an animal hired by the court, except where the sentence specified that he had to be dragged (*rocegat*), in which case he would arrive after this previous punishment. In the counties of Roussillon and Cerdanya, the same protocols were observed as with the other executions, so the prisoner usually wore a shirt, pants and a hood (“one shirt, pants and a hood”) provided by the court, while the executioner always received his gloves: “some gloves that the executioner uses to carry out the justice”.² The punishment was always carried out by the same officers who applied the usual death penalty. So, in areas like Roussillon and Cerdanya where the professionalism of the executioner was respected,³ he travelled as for any other execution. This is what the executioner from Perpignan, Joan lo Borni (“the one-eyed”), did in 1424 when he went with a messenger to the furthest part of the counties, the capital of the subvicarage of Baridà, Bellver de Cerdanya, to execute a homosexual on the pyre: “to burn one man condemned as a sodomite to burn”.⁴

The prisoner was held up by a long thick pole stuck in the ground —“one pole that he is tied to”—which cost 13 shillings in the mid-fourteenth century, to which half a shilling had to be added for the transport of the pole (“taking said pole”).⁵ This pole sometimes was adapted from shipyards using the Catalan words *aguar* (mast) or, on other occasions, *estamenera*, a word of nautical origins and uses that referred to a ship’s rib.⁶ In Barcelona, the prisoner was practically always tied to the vertical pole with an iron chain, although it could be done with a thick, well-tied hangman’s rope. This was often done in Perpignan, using a rope (*dogal*) identical to the one used for hanging. At his feet and especially around him there was a combination of firewood and kindling,⁷ so that the pyre burnt well.⁸ The kindling was often heather, used to stoke the fire working as wood shaving—“three bundles of heather to work as wood shaving”—which was combined with bundles of thick firewood (“four bundles of thick firewood”).⁹ On other occasions, often in both in Tortosa and Roussillon, vine shoots (*sarments*)¹⁰ were used, sometimes speeding up the consumption of firewood to enable the combustion to be obtained with two bundles of firewood and one bundle of vine shoots: “Two bundles of firewood and one bundle of vine shoots”.¹¹ This firewood was purchased from the town’s usual suppliers, as stated in Barcelona in 1395 when the court of the subvicar paid 26 shillings “to Berenguer Oromir, lumberjack of Barcelona for firewood that serves to burn one slave of Francesc Peres named Antoni, accused of the crime of sodomy”.¹² Typically in the middle of the fourteenth century the cost was around half a penny for the small firewood and between 1 and a half and 2 for the bigger ones. The story of the cost of an execution in Barcelona in 1357 is clearly described in the case of a Muslim who was taken to be burnt, but who was converted and baptised while he was being placed on the pyre:

It is noted that it was spent, on Monday the 6th of the month of February in 1357 to burn one Moor who was named Maçoc, as he was baptised while he was placed in the fire. This is what it cost, firstly four bundles of firewood between large and small, 18 shillings; cost of one ship’s rib needed for the pole between the mast and everything, 3 shillings; cost of some handcuffs and one iron chain, 6 shillings; cost of one crier who made the call, 2 shillings; cost of one mule who took him to the fire, 3 shillings; sum that all these rose to 32 shillings.¹³

As with those condemned for other offences, when it was wished to emphasise the seriousness of the case, the accused could be tied in a cart, like the *castell de fusta*, where everyone could see, insult and harass him, and then was burnt in the same cart. This is what happened in Tortosa in 1391 given the great expectation about the hermit of Muslim origin, who was first paraded and later burnt.

Consequently, in this same case, a special cart had to be prepared, made by a carpenter with the help of his son, who “worked to make the constructions in the cart with which the hermit called Alí Joan was burnt”.¹⁴

Similarly, the same sentence could require the sergeants to encourage popular hatred for those sentenced for crimes considered especially monstrous. This is what happened in 1392, again in Tortosa, in the case of a man convicted of raping young boys and sentenced to burn; the rapist was paraded through the streets, including past his own house, and he was accompanied by a sergeant who shouted out that this was the person who had raped the boys: We condemn thus that he be taken from the courthouse riding on the cross and along *Carrer dels Sastres* (the Tailor’s Street) and from there to the *Plaça dels Cols* (Cabbage Square) and after to the Market and from there return by the fish market and the street of the Exchanges to the Gate of the bridge with the sergeant shouting: ‘this is the one who has raped the children’; and from there, that is, from the gates of the bridge, across the bridge to the threshing floors, where he lives, where the said Domingo be burnt on the fire so that the punishment of the said Domingo instils terror in others like him who want to try.¹⁵

In this case, the culprit was burnt, according to the sentence, near where he lived and probably did the crimes that merited the punishment. This was easier because his home was in an open place near the threshing floor outside the city. In reality, in all the large towns and cities, there was a special place where executions on the pyre were traditionally carried out, always outside, but very close to the walls, so that it combined this punishment as a public warning with safety precautions. In Barcelona this was in the so-called *Canyet*, near the Saint Daniel gate, east of the city,¹⁶ where people were also hung.¹⁷ In the fifteenth century, people were sometimes condemned to the pyre and burnt a little further east, in a marshy area, as described in 1406 regarding the execution by fire of a slave found guilty of homosexual relations: “Joan, slave of Arnau Cili, who had had carnal relations by the anus, and said Joan was burnt at the lagoon”.¹⁸ However, the *Canyet* continued to be the main place used for these purposes¹⁹ (although the proximity between the two has led to confusion as if they were both the same, despite the medieval documentation differentiating between them²⁰). In Lleida, the place for the pyre was in the *Areny*, a sandy place next to the bridge at the main gateway, while in Perpignan, it was done “in loco de la Grava ubi solent tales comburi seu concremari”.²¹

Normally, one reached the pyre alive, which meant that in 1422, in Perpignan, a slave, when he was already on the pyre, was freed for a moment due to a legal dispute about whether he came under the royal

fiscal or not.²² Infrequently, the convict could be burnt after execution. This practice was used occasionally with women accused of witchcraft, especially around the end of the fifteenth century. Thus, a decree about Valentina de Guarner in Lleida in 1485 called for her to be drowned before being burnt: “that she be firstly drowned and immediately after being drowned, she must be burnt, on the sand bank outside the main bridge and in front of the council house of the present city”.²³ In general, in the fourteenth century, execution before the pyre was contemplated as a special consideration for the accused. This was the case in 1388 in Santa Coloma de Queralt, when Joan Franco was sentenced to the pyre for being homosexual. However, given that he had confessed and showed repentance, he was allowed to die on the gallows before being tied to a post and put on the pyre already dead.²⁴ The same occurred in Lleida in 1458, to compensate for the Muslim accused of sodomy having converted to Christianity.²⁵ However, at the end of the fifteenth century, the royal council dictated sentences against sodomites who, in a public ceremony in Barcelona, had to be first drowned—“suffocetur taliter quod moriatur”—and then burnt—“igne concremetur”. It was even specified that this was the usual way to punish sodomites. This was effectively applied to all those who deserved this accusation, although they were of low social standing, like Pasqual Escolà in 1465, the baker Pasqual Vicente in 1493 and the black slave, Cristòfol in 1500.²⁶

Figure 12.1 Depiction of the flames in which, in the Square of the Rambla of Barcelona, a notable citizen and a hermit accused of sodomy were burnt after being strangled, on 28th May 1464, in the context of the civil war (BC ms. 978, f. 106v)

Figure 12.2 Depiction of the fire in the Rambla of Barcelona on which two citizens accused of sodomy were burnt after being drowned in water, in 21st July 1464, in the context of the civil war (BC ms. 978, f. 107v)

In reality, the need for exemplary punishment could require executions to be carried out when the condemned was already dead. In 1367, a trial took place about the disappearance of a pyx containing holy hosts; it was believed to have been handed to Jews who wanted to profane them, this fits with a wider obsession with the supposed deicide by the Hebrews.²⁷ After being tortured, one of those accused of taking part in the robbery was found dead in his cell, for which the General Governor of the Crown, the heir, Prince John, as he himself explained, ordered that he be dragged and burnt: “one morning he was found dead in the prison, from which, already dead, I had him dragged and burnt”.²⁸

The amount of wood used on a pyre affected the degree of combustion reached, and this conditioned how long the prisoner took to die and the amount of human remains that were left. On very few occasions, usually in the cases of women who had earned some type of mercy, these surviving fragments were saved from the dogs and vermin and collected and buried, although outside the normal holy ground. This was paid for by the municipal council of Tortosa in 1391, by offering 5 and a half shillings to a gravedigger to do this: “to Miquel Castell gravedigger who buried there by the bridge the woman burnt so that she would not be eaten by dogs”.²⁹ Only in specific cases did the sentence state that the charred remains should be buried: “the powder, if there was any, will be buried”, was indicated in Lleida in 1458 as one of the compensations offered to a Muslim who had converted before being executed on the pyre.³⁰

The normal pattern was to add more wood to rekindle the fire if fragments that were too big were left at the end, as happened at dusk on the 16th of November 1359 in Barcelona. 2 and a half shillings were spent on a bundle of firewood in the evening to ensure that the body was well burnt: “one bundle of firewood in the evening so that he was well burnt”.³¹ This was to guarantee that the human remains were reduced to ashes in the cinders of the fire, so they could be collected without any care and thrown, depending on the proximity, into the sea, a river or a ditch—*rec*—that, like a sewer, was where all the rubbish went. Thus, in 1390, the Tortosa municipal government paid 11 shillings to three sergeants to gather the ashes of the woman burnt and throw them into a ditch: *tres saigs que plegaren la cendra de la fembra cremada e gitaren-la al rech*.³² In fact, in many cases, especially those involving witchcraft, fear of the accused required the complete destruction of their remains. So, in trials of witches, who according to the generally accepted conviction, had explicit dealings with the devil and caused deaths included those of small children, they had to suffer being dragged by an animal and then completely burnt until only ash was left:

That the culprit be placed well tied on a basket, and after this basket be tied to the tail of an equine animal, which stretches till the place where the justice will be done, and here he must be put in the fire, and his body will become dust.³³

Indeed, being executed on the pyre meant the complete destruction of the remains of the executed with the intention of making the body and, with it, the memory of the person, disappear completely. That is why this was the sentence in the most serious crimes, those considered against divine will. On an earthly level, the worst offence imaginable, attacking the sovereign, would be punished with a death that involved atrocious suffering to show the seriousness of the crime and, through

fear, guide the behaviour of the society. The culmination of this could be no less than reducing the remains of the guilty person to nothing. In 1492, the King Ferdinand the Catholic was attacked³⁴ by Joan de Canyamars, a peasant who was described as mad.³⁵ However, in reality, his agrarian origins place the attack in the context of the *remences* vindications when, after the sentence of Guadalupe in 1486, there were not only claims to be dealt with but also many wounds still open in the rural environment.³⁶ No unrest could mitigate the punishment, beyond the magnanimity of the sovereign towards a person who was considered to have acted alone and lacking reason.

The bearer of the crown gathered around him the set of loyalties that power wove, integrating different sensibilities and interests³⁷ in a patch that reached a formal cohesion, from which a common reaction can be expected. In this sense, the attempted assassination of the sovereign had to lead to a reaction supposedly shared by society, and this would express a collective support to the king, which included a great anger against the assailant. Thus, the normal answer to an attempt to the sovereign will be given by the discourse of power of the king, but this one reinforced his position through the apparent complicity of the whole society. King and society would share the enormous aversion to anyone who attacked the sovereign was going against the social order dictated by God. It makes sense that the *Rúbriques de Bruniquer*, written in seventeenth century, summarised the rigour applied saying that what the case required was: "it was applied with the rigour that the case required".³⁸ Consequently, the person accused of regicide had to travel the streets of Barcelona in a chariot or *castell de fust* where everyone could see and inveigh against him, while he had his extremities progressively amputated and he was quartered. With the amputation of the second limb he died, but the ceremony continued with the progressive public amputation, until the remains were all burnt together with the cart. There was a necessary rigour to interpreting that the weight of the punishment should correspond to the seriousness of the crime, even going beyond the personal conditions of the accused:

On the 7th of December 1492, there was the case of the stabbing of King Ferdinand while he was coming down the *Santa Ágata* (Saint Agatha) stairs from his palace, by Joan Canyamàs, a mad and innocent men who wounded him on the back of the neck, and he was given seven stitches, and said Joan Canyamàs was arrested and tormented and although it was known that he was mad and crazy, he was condemned to death, although the king had pardoned him, and the sentence was for him to be tied to a pole and placed in a cart and in the old *Plassa del Blat* (Wheat Square) to have one of his hands cut off, and in the Born the other, and there he died. In the *Plaça de Sant*

Jaume (Saint James Square) they took his nose, an eye and a leg, and in the *Plassa Nova* (New Square), a thigh. In *Plassa Santa Anna* (Saint Anne Square) the other leg and thigh, and after he was taken along the street of *Sant Pere* (Saint Peter), the porch of the *Portal Nou* (New Gate) and on the way he was quartered, outside the *Portal Nou* (New Gate) the cart was set on fire and everything burnt.³⁹

This severity was acted out, led and at the same time backed, by a popular fervour that surrounded the act as if it were some kind of macabre festival. This is how the chronicler Pere Miquel Carbonell, a witness to the events, perceived it, starting from the fact that the seriousness of the situation demanded such a cruel punishment: “such and so cruel”.⁴⁰ So, the condition of the culprit, who had been defined as mad and thus not in full control of his acts, was not taken into account. Nor was forgiveness offered by the victim, who thus consolidated another aspect of his royal virtues by expressing his magnanimity. Placed above all was the seriousness of having wanted to attack the sovereign. Given this seriousness, the punishment had to include cruelty, as the chronicler explicitly comments on indicating the intention behind wanting the culprit to be fully aware and alive while having parts amputated, and thus able to suffer the terrible pain: “Live and alive, to have him hung, a fist and a piece of arm were cut off”.⁴¹ The progressive quartering culminated with the extraction of the brain: “And after in the other streets, so going, he was dismembered, taking now one member, now the other, until his brain was taken out”.⁴² It was a question of dying suffering, to the point that the onlooker felt pity for the prisoner: “Thus they made him die hanging, that was a thing of mercy”.⁴³ Nevertheless, the dominant feeling among the population was not one of commiseration but rather derision, to the extent that it became a festivity for the youths, who had fun shouting around the execution and even took over the ceremony:

And with a great riot of old and young who went around and in front and behind, he was taken from the city through the *Portal Nou* (New Gate), and the castle cart was taken through the other streets that lead to the *Portal Nou* (New Gate). And just outside the city, he was stoned and the castle set on fire, which, with the pieces of the condemned man in the castle, was turned into ashes.⁴⁴

Significantly, the end took place at the hands of a furious crowd. A mob, however, dominated by young people. Nobody did anything to prevent this, rather the opposite. At that time, it was accepted that as a group, the young were led by passion more than reason, unable to control their emotions.⁴⁵ So it was these young people who were ideal for showing what the people should feel without nuances, when such great harm had been inflicted not so much on the person of the king,

who had been slightly injured, but more on the institution of the monarchy. As if it were an exercise in political propaganda, the king, with the magnanimity that characterised him, had pardoned his aggressor, but the population, hurt because the criminal had wanted to kill their lord, took their wrath out on the latter, going beyond what had been dictated in the sentence, even destroying all his remains. There was no need for the sentence to describe each step to be followed. There was enough to allow the society to take over the punishment ceremony in behalf of those who could express it through unlimited emotion. In any case, the cruelty and expressiveness shown culminated with the fire. There was no need for a display of the human remains as a reminder for anyone who might harbour similar intentions. The seriousness of the offences required a display of cruelty and the elimination of any remains of the guilty. This was the purpose of the fire: to expel the culprit from memory. What did remain in this was, in any case, the memory of the suffering inflicted on the body, which is why the punishment was applied in the streets of the city with the active participation of the population. The spectacle of the execution fulfilled the function of transmitting an idea, reinforcing the social model and the exercise of power, and was accepted, shared and even promoted by the population as a whole. The atrocity had entered the customary symbolic language between the rulers and the people, both joyfully sharing the application of dreadful and cruel punishments for those who had dared to break the social order, as in other parts of Europe around the same time, and as in the application of capital punishments against the leaders of the peasant revolts at the start of the sixteenth century.⁴⁶

Notes

- 1 “fiu justícia de I moro que fiu cremar”. ACA MR 1475–1, f. 88r.
- 2 “I camisa, brages e capell”; “uns guants qui serviran al botxí per fer la justícia”. ACA MR 1528, f. 233r.
- 3 Flocel Sabaté, “Le bourreau en Catalogne au Bas Moyen Âge”, *Corps en peine. Manipulations et usages des corps dans la pratique pénale depuis le Moyen Âge*, Martine Charageat, Bernard Ribémont, Mathieu Soula eds., Classiques Garnier, Paris, 2019, pp. 61–67.
- 4 “per cremar hun hom condemnat com a sodomita a cremar”. ACA MR 76, f. 137r.
- 5 “I pal en què stech tot ligat”; “portar lo dit pal”. ACA MR 1465–1, f. 88r.
- 6 Antoni Maria Alcover, Francesc de Borja Moll, “Estamenara”, *Diccionari Català-valencià-balear*, Editorial Moll, Palma of Majorca, 1985, vol. 5, p. 508.
- 7 The firewood surrounded the prisoner, coinciding with the reproduction: BML, Fonds Palais des Arts, MS 20, f. 44 r; Nicole Gonthier, ed., *Délinquance, justice et société dans le Lyonnais médiéval. De la fin du XIIIe siècle au début du XVIe siècle*, éditions Arguments, Lyon, 1993, cover; Nicole, Gonthier, *Le châtimet du crime au Moyen Âge*, Presses Universitaires de Rennes, Rennes,

1990, pp. 96–97.

- 8 In a similar way, the description of a pyre in Vizcaya shows how the prisoner was tied “to a column or bar of iron, four bundles of firewood higher than the column were placed around it and it was set on fire” (“a una columna o barra de hierro, ponían alrededor cuatro haces de leña más altos que la columna y le daban fuego”). José García Mercadal, *Viajes de extranjeros por España y Portugal*, Aguilar, Madrid, 1952, vol. 1, p. 269.
- 9 “III somades de bruch a obs d’encenays”; “III somades de lenya grossa”. ACA MR 1475–1, f. 88r.
- 10 ACBEB, clavaría, llibre 28, unnumbered.
- 11 “dos somades de lenya e una somada de serments”. ACA MR 1528, f. 233r.
- 12 “an Berenguer Oromir, lanyador de Barchinona per lenya que serví a cremar I sclau d’en Ffrancesch Peres appellat Anthoni, delat de crim de sodomia”. ACA MR 1549, f. 62r.
- 13 “Met en data los quals despús diluns a VI del mes de fabrer de l’any MCCCLVII per cramar I moro lo quall avie nom Maçoc, puys se betegà mentre que ll meten el foc. So és que costa, primerament IIII somades de lenya entre grossa e menuda, XVIII sous; item costa I estamanera de nau ops del pal entre aguar e tot, III sous; item costaran unes maneres e una cadena de ferra, VI sous; item costa I cridador qui feya la crida, II sous; item costa I mul qui porta fins al foch, III sous; suma que munten aquestes masions, XXXII solidos”. ACA MR, 1546–1, f. 26r.
- 14 “meteren en fer les bastiments en lo carro ab què cremaren l’ermità appellat Alí Johan”. ACBEB, clavaría 28, unnumbered.
- 15 “Condempnam axí que menat de la casa de la cort cavalcan per la croera e per lo carrer dels sastres e d’allí per la plaça de les Cols e depuys tro a la lotja e d’allà en tornan per la pescateria e per lo carrer dels cambis tro a la porta del Pont lo saig cridant: ‘aquest és aquell qui ha forçat los fadrins’; e d’allí, ço és, de les portes del pont passen lo pont a les eres, que allí viu, en foch sia lo dit Domingo cremat per tal que la pena del dit Domingo do terror als altres semblants cases volents assajar”. ACBEB, Paeria i Vegueria II, 61, f. 152v–153r.
- 16 Miquel Gea, *Intervenció arqueològica al Portal de Sant Daniel. Passeig Pujades, 10–20 i passeig Picasso, 7–21. Parc de la Ciutadella (MHCB 029/06, Actium. Arqueologia i Patrimoni, Mataró, 2008 (unpublished) http://cartaarqueologica.bcn.cat/Docs/419/2010_12_03_18_05_42_Mem%C3%B2ria%202009-06.pdf. Consulted: 29th July 2018.*
- 17 “Crònica del racional de la Ciutat de Barcelona (1334–1417)”, *Recull de Documents i Estudis*, 1/2 (1921), p. 156.
- 18 “Johan, sclau d’en Arnau Cili, havia conagut carnalment per lo ces e lo dit Johan fou cramat a la lacuna”. ACA MR 1577, f. 77v.
- 19 Frederic Schwartz, Francesc Carreras, eds., *Manual de novells ardis, vulgarment apellats dietari del antich consell barceloní*, Imprempta d’en Henrich y Companyia, Barcelona, 1893, vol. 2, p. 537.
- 20 Santiago Tarín, “Morir en públic”, *La Vanguardia*, 21 August 2015 <<http://www.lavanguardia.com/local/barcelona/2015/08/21/54,434,929,625/morir-publico.html>> Consulted: 21st August 2015.
- 21 ADPO 1B-225, f. 6v.
- 22 ADPO 1B-225, f. 6v.
- 23 “que sie primerament offegada e aquella offegada, de continent cremada, en lo areny fora lo pont major e endret de la Casa de la present ciutat”. AML, Administració de justícia, Processos de Crims, 789, f. 5v; Miquel Montanya, *El tribunal de coltellades. Alguns aspectes processals*. Ajuntament de Lleida—Pagès

Editors, Lleida, 2007, p. 240.

- 24 Jaume Riera i Sans, *Sodomites catalans. Història i vida (segles XIII–XVIII)*, Editorial Base, Barcelona, 2014, pp. 144–147.
- 25 AML, Secció Administració de justícia, processos de crims A-829, f. 106r-v; Camps, *El turment a Lleida*, pp. 106–107.
- 26 Riera i Sans, *Sodomites catalans*, pp. 176–178.
- 27 Gilbert Daman, *Les Intellectuels chrétiens et les juifs au Moyen Âge*, Editions du Cerf, Paris, 1990, p. 27.
- 28 “un matí fou atrobat mort en la presó, lo qual, jatssia mort, jo fiu rocegar e cremar”. ACA C, reg 1708, f. 101r-103v; Fritz Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, Akademie Verlag, Berlin, 1929, p. 403.
- 29 “an Miquel Castell fosser qui soterrà dellà lo pont la dona cremada per ço com no la menjassen cans”. ACBEB, clàvia 28, p. 110.
- 30 “la pòlvora, si n’i haurà, sie soterrada”. AML, Secció Administració de Justícia, processos de crims A-829, f. 106v; Manuel Camps, *El turment a Lleida (segles XIV–XVII)*. Edicions de la Universitat de Lleida, Lleida, 1998, p. 107.
- 31 “I somada de leya al cap vespre per tal com fos ben cremat”. ACA MR 1475–1, f. 88r.
- 32 ACBEB, clàvia 27, f. 131r.
- 33 “que lo delat sia mes en una sàrria bé ligat, en après la dia sàrria sie ligada a la coha de una bèstia e sia stiraçat fins al loch hon se farà la justícia e aquí sia mes al foch e del seu cors feta pòlvora”. José I. Padilla, ed., *L’esperit d’Àneu. Llibre dels costums i ordinacions de les Valls d’Àneu*, Consell Cultural de les Valls d’Àneu, Esterri d’Àneu, 1999, p. 148.
- 34 Valentí Gual, *Matar lo rei. Barcelona, 1492*, Rafael Dalmau editor, Barcelona, 2004, pp. 9–43.
- 35 Flocel Sabaté, “Conflictos agrarios i guerra civil a la Catalunya baixmedieval. Realitat i ficció historiogràfica”, *Miscel·lània Ernest Lluch i Martin*, Ferriol Soria, Jordi Ferrer, eds., Fundació Ernest Lluch, Vilassar de Mar, 2007, vol. 2, p. 406.
- 36 Valentí Gual, “Les conseqüències de la sentència arbitral de Guadalupe”, *Revisió historiogràfica de Jaume Vicens Vives*, Àngel Casals, dir, Galerada, Cabrera de Mar, 2010, pp. 132–134.
- 37 José Manuel Nieto Soria, “De la ira regia al poderío real absoluto: monarquía y miedo político en la corona castellano-leonesa”, *Por política, terror social*, Flocel Sabaté, ed., Pagès editors, Lleida, 2013, pp. 255–257.
- 38 “feu-se aquesta rigor segons lo cas ho requeria”. Esteve Gilibert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras i Candi, Bartomeu Gunyalons i Bou, eds., Imprenta d’Henrich i Companyia, Barcelona, 1916, vol. 5, p. 6.
- 39 “A 7 de desembre 1492, succehí lo cas de la coltellada del rey Don Ferrando devallant de son palau per las escalas de Santa Àgata, que Joan Canyamàs, home orat e innocent lo ferí al coll de part darrera, y foren-li donats set punts, y lo dit Joan Canyamàs fou prè e tormentat e jatsie que conegueren era foll y orat, fou condemnat a mort, si bé lo rey li havia perdonat, y la sentència fou que l posaren en un carretó amarrat en un pal y a la plassa del Blat vella li fou levat lo un puny, y al Born l’altre, y aquí morí. A la plassa de Sant Jaume li levaren lo nas, un ull y una cama, y a la Plaça Nova una cuxa. A la plassa de Santa Anna l’altre cama y cuxa, y après lo portaren per lo carrer de Sant Pere, la Volta del portal Nou y per lo camí lo squarteraren, fora l Portal Nou fou mes foc al carretó y tot fou cremat”. Bruniquer, *Ceremonial dels Magnífichs Consell*, vol. 5, p. 6.
- 40 “tal e tant cruel”. Pere Miquel Carbonell, *Cròniques d’Espanya*, ed. Agustí

Alcoberro, Editorial Barcino, Barcelona, 1997, vol. 2, p. 262.

- 41 “de viu en viu, per fer-lo bé penar, li fo levat un puny e un tros de braç”. Carbonell, *Cròniques d'Espanya*, vol. 2, p. 263.
- 42 “après en los altres carrers, axí anant, lo desmembraren, levant-li adés a member, adés altre, fins a traure-li lo cervell”. Carbonell, *Cròniques d'Espanya*, vol. 2, p. 263.
- 43 “axí'l feren morir penant, que era cosa de pietat”. Carbonell, *Cròniques d'Espanya*, vol. 2, p. 263.
- 44 “E ab gran avalot de fadrins e gent jove que li anaven a l'entorn e davant e detràs lo tragueren de la ciutat per lo portal Nou, que feren passar lo castell per los altres carrers que van al portal Nou. Y escassament fo fora la ciutat lo lapidaren e meteren foch al castell, lo qual, ab los troços de l'home sentenciat qui en lo castell estava, fon tornat prest cendra”. Carbonell, *Cròniques d'Espanya*, p. 263.
- 45 María del Carmen García Herrero, *Los jóvenes en la Baja Edad Media. Estudios y Testimonios*, Institución Fernando el Católico (Excma. Diputación de Zaragoza), Saragossa, 2018, p. 117.
- 46 Paul Freedman, “Atrocities and Executions of the Peasant Rebel Leaders in Late Medieval and Early Modern Europe”, *At the Edge of Law: Socially Unacceptable and Illegal Behaviour in the Middle Ages and Early Modern Period*, Suzana Miljan, Gerhard Jaritz, eds., *Medium Aevum Quotidianum. Gesellschafts zur Erforschung der materiellen Kultur des Mittelalters*, Krems, 2012, pp. 78–81.

13 More fire

The inquisition and the death penalty

The persecution of heresy in the thirteenth century led to the formation of a specific institutional structure dedicated to inquiring into these crimes of opinion and belief that offended the doctrine desired by God. The seriousness inherent in contradicting or attacking the divine will required a strong response to avoid God from interpreting this as tolerance of evil and thus prevent his wrath from falling on society as a whole. On this basis, everyone was soon familiar with the harsh punishments derived from the work of the Inquisition. Its later evolution at the end of the Middle Ages would place this punitive power among the instruments with which society was unified. However, the focus of this was not so much on erroneous beliefs but more on the behaviour of the marginal and weak sections of society.

Interpreting physical and natural misfortunes as God's punishment¹ meant experiencing religion through a theological realism,² one that imagined an anthropomorphised God who became angry and repeatedly broke the cosmic plot—to use Bultmann's theological approach³—to punish those societies that tolerated evil and His enemies. In fact, in popular belief, the saints already fulfilled a role as intercessors in all the material aspects needing protection.⁴ This links with medieval ideas of how men were both individuals and held shared collective responsibilities, including for punishment.⁵ Understandably, misfortune led to municipal gatherings (which tried to guess what had been done wrong to merit the punishment received),⁶ processions and prayers demanding divine favour⁷ and, especially, clergymen requiring, in their preachings, that local authorities not tolerate sin and the enemies of God.⁸

Logically, the pursuit of such serious enemies of God as heretics was everyone's responsibility. Not only pursuing them but also displaying the repudiation they generated. The punishment had to be serious enough to instil fear among anyone who might harbour doubts about this and, at the same time, to demonstrate the conviction of society before God. The heretical word had to be consumed by fire, in line with the tradition of destroying libraries,⁹ which would be returned

to.¹⁰ Heretical texts, especially those in the vernacular—in *vulgari*—had to be burnt: “eosdem libros comburas et comburi facias”.¹¹ Likewise with the heretics themselves, to prevent them harming the rest of society. Burning the heretics was nothing more than applying literally the Gospel of Saint John, when he depicts Jesus identifying himself with the vine that we all have to belong to for it to bear fruit, because if not, the leaf on its own dries up and is burnt as litter: Ἐγὼ εἰμι ἡ ἀμπελος, ὑμεῖς τὰ κλήματα. ὁ μένων ἐν ἐμοί καγὼ ἐν αὐτῷ οὗτος φέρει καρπὸν πολὺν, ὅτι χωρὶς ἐμοῦ οὐ δύνασθε ποιεῖν οὐδέν. ἐάν μή τις μένη ἐν ἐμοί, ἐβλήθη ἔξω ὡς τὸ κλῆμα καὶ ἐξηράνθη, καὶ συνάγουσιν αὐτὰ καὶ εἰς τὸ πῦρ βάλλουσιν, καὶ καίεται.¹²

The punishment by fire had to destroy the remains of the heretic totally, so that no flesh or bones or anything of the body was left. Some sentences ordered this explicitly: “be burnt so that he dies and becomes dust of the flesh and all the bones and bodies”.¹³ Given this forcefulness, it has come to be asked whether the purpose was to eliminate any remains that prevented the posterior resurrection of the flesh, awaited by Christianity after the Last Judgement. At least, another and complementary scope was to impede any remains that enabled a later recognition or even worship by their supporters, in continuity with the practice known in classical Rome¹⁴ and concordant with a recognition of the worship of martyrs by the supporters of the condemned heretics.¹⁵ In fact, the punishment always included the loss of assets, which were confiscated, and also the loss of the record, recognition and memory, not only one’s own but also those of the family lineage. The memory of the heretic was dismantled, and any later recognition by his or her relatives was impeded and even relief through the prayers by the living was denied.¹⁶

The moral and religious authority of the Church imposed the conceptual framework accepted by society and when it requested the help of the secular arm, it did so from this intellectually dominant position: “invocato ad hoc si opus fuerit auxilio brachii saecularis”.¹⁷ This wider context allows us to challenge the views of some historians that ecclesiastical inquisitors were at the mercy of the secular authorities.¹⁸ Apparently, there was a duality, one underlined when Innocent III stated that the clergy, when handing over an accused to the secular courts, had to ask the judge for piety.¹⁹ In practice, the separation is difficult to perceive, because in the end, both sides participated in the ideological context presided over by the Church and in a climate of growing fear of tolerating God’s enemies.²⁰ As we shall see in greater detail in the immediate pages of this chapter, the secular arm normally raised no objections but rather followed the

proposals by the Church officials. This way, access to the secular power in practice offered a greater repertory to the Church, and the historiographical opinion that, as the Church could not contribute to the spilling of blood, it preferred prison sentences to physical punishment, must be questioned.²¹

The initial stimulus arose at the beginning of the thirteenth century with the persecution of the Cathar heresy in Occitania. The crusade against the Cathars was surprising for the fanatical aggressiveness unleashed by the promoters, both in the massacre of Béziers in 1209 and all the other events that followed until 1213.²² The reverberations of these campaigns²³ and the actions against the doctrines that had mixed an insistence on poverty with a rupture with the Church and even with the social order²⁴ led to a specific and stable formulae for persecuting heresy, especially after the papal decrees of Gregory IX in 1231. The new and successive decrees added during the thirteenth century facilitated a fast and agile system for acting against heretics and with that, fewer and limited legal guarantees. This culminated with Boniface VIII who explicitly urged to act “simpliciter et de plano et sine strepitu et forma iudicii”.²⁵ The bull of 1234, *Declinante iam mundi*, sent by Pope Gregory IX to the metropolitan archbishop of Tarragona, was the starting point for the Catalan Inquisition, well-articulated after the *Inter alia* bull of 1249 by Innocent IV. The respective inquisitors general centred their activity on the whole of the Crown of Aragon, with the help of the mendicants. The Franciscans took on clear responsibilities in this initial century, although the greatest burden fell on the Dominicans. Perpignan showed both the contribution of the Franciscans “heretice puniendus”²⁶ and the consolidation of the leadership of the Dominicans, in whose installations most of the trials took place and where the archives were kept.²⁷

In the thirteenth century, the persecution of the Cathars was the main focus of the punitive action of the Inquisition. It was supervised by the bishop or archbishop, giving a prominent role to the archbishop's see in Tarragona. All the Catalan sees came under this archbishopric except Elna and the Catalan territories in the new diocese of Alet, created in 1318, both of which were linked to Narbonne. In Occitania pursuing heresy became a hard struggle²⁸ against the local aristocracy and emerging urban elites as well as their culture and customs.²⁹ Central leading figures included Esclarmonde de Foix, pursued as “heretica seu perfecta” and mythicised by later writers.³⁰ She was supported by her brother, the count of Foix, a powerful noble on both sides of the Pyrenees³¹ who protected Catharism while promoting regional identity and power.³² The porous relations between the northern and southern sides of the mountains³³

facilitated the circulation of ideas and people.³⁴ The regions were linked during the initial crusade,³⁵ and it makes sense that the Inquisition continued acting in Catalonia. In Roussillon, the northern Catalan region after the treaty of Corbeil in 1258,³⁶ three of the twelve people known to have been condemned for heresy during that century were burnt on the pyre.³⁷ The same verdict was applied to the condemned who had already died, which meant digging up their bodies and throwing the remains on the fire. In the mountains of the bishopric of Urgell, the highest ecclesiastical authority applied the same criteria from 1237, and this led to the condemnation of 18 dead people, who “fecimus exhumari et earum ossa comburi”.³⁸

This action in the bishopric of Urgell received the backing of the provincial council held in Lleida shortly before and was centred completely on the viscounty of Castellbò, with whom the bishop of Urgell had bad relations due to serious jurisdictional clashes.³⁹ Furthermore, at the start of the century, Viscount Arnau had stood out as a protector of heretics in this context of jurisdictional tension.⁴⁰ Mixing jurisdictional arguments, noble conflicts and religious discussions had led to serious conflicts in the region. In 1195–1196 the cathedral of Urgell was sacked by the count of Foix.⁴¹ During the first years of the thirteenth century, a succession of agreements and attacks, always mixing secular and religious measures, took place between the count of Foix and the viscount of Castellbò against the bishop of Urgell, who received a military help from the count of Urgell.⁴² In 1223–1226, the enmity between the count of Foix and the viscount of Castellbò on one side, and the count of Roussillon and Cerdanya on the other facilitated the invasion by the former. Nevertheless, the aim of the assailants was to shame the religion, this is one reason why some local people joined the invaders to act against the Church. Around 30 churches were sacked including assaults on the notion of the Catholic faith itself: clergy attacked, consecrated wafers —“in quo erat Corpus Domini”⁴³—thrown away in dirty places, meat cooked and eaten in the churches on a Friday when its consumption was forbidden, images of the Cross damaged and also a woman raped beside an altar.⁴⁴ At that time in that Pyrenean area, religious strife was associated with feudal tensions. This makes sense given that the bishop was at the heart of the conflict mixing his religious arguments with his desire to impose himself over the region.⁴⁵

In this context, in the 1220s, the viscount of Castellbò not only promoted Cathar thought, accommodating clergy and leading violent and offensive action against the religion, but in reality he was leading an anticlerical coalition, in line with his regional feudal interests.⁴⁶ Accordingly, both the bishop and the Inquisition identified him as a danger. This was the point where the new bishop, Ponç de Vilamur,

elected in 1230 on a promise to fight the lords of Castellbò-Foix, reached an agreement with the inquisitor in 1232 and obtained the aforementioned support of the provincial council held in Lleida in 1236–1237. The tense context explains why the first inquisitor Ponç de Planès was murdered in Castellbò in 1237. This accelerated the activities of the Inquisition, and it became its biggest ever military intervention in Catalonia. The archbishop of Tarragona, three bishops (Urgell, Lleida and Vic), numerous Franciscan and Dominican clergymen (to identify heretics) and troops from the viscount of Cardona went to the viscounty of Castellbò. The bishop of Urgell excommunicated the count of Foix as the holder of the viscounty of Castellbò. Although he ceded the rights to his son, he had to let the inquisitors enter and cede the viscounty temporarily to his brother-in-law, the viscount of Cardona.⁴⁷

The immediate results in the viscounty of Castellbò were the destruction of assets, 45 heretics taken prisoner (“circa quadraginta quinque personas condemnauimus tanquam haereticos et eos nobiscum duximus”⁴⁸) and the above-mentioned exhumation of the 18 whose remains were then burnt. This disinterment was based on the progressive application of the canons of the IV Lateran Council, held in 1215. These obliged the removal of the remains of anyone who was discovered to be a heretic from sacred places to be submitted to trial: “si quis post mortem detectus fuerit in secta seu credentia haereticorum decessisse, si eorum corpora vel ossa ab aliis discerni potuerint, extumentur et saeculari iudicio relinquuntur”.⁴⁹ The regional councils adapted this as the norm, as did Council of Arles in 1234.⁵⁰ The inquisitor’s directory or guide established by a ecclesiastical meeting held in Tarragona in 1241–1242 with the participation of Raymond of Penyafort as papal confessor ordered the remains of the heretics to be disinterred and burnt: “si in inquisitione inueniatur aliquis hereticus vel insabbatatus vel credens fuisse sepultus un cimiterio, ossa eius extumentur et comburantur si possint discerni”.⁵¹ When the inquisitor sentenced someone as a heretic he immediately ordered them expelled from the sacred cemetery, as was said in Perpignan in 1243: “per diffinitivam sententiam esse hereticum iudicio, et eius corpus sive ossa a sacro cimiterio decerno exhumanda”.⁵² In reality, from the start of the eleventh century, councils like the one in Limoges in 1031 banned the excommunicated from burial in holy places. The inquisitors of the thirteenth and fourteenth centuries, like Bernard Gui, were convinced that the body of a heretic profaned a cemetery and thus contaminated it. This led to collaboration to remove these, given the rejection and fear that this generated.⁵³ This was a progressive triumph of the inquisitors fought over the memory of the dead.

In any case, action against the dead consolidated the triumph of the Inquisition. The main supporters of the heresy in the first third of the century were condemned in their memory, remains and goods 40 years later by the inquisitional trial meeting far from the Pyrenean areas, in Barcelona. Viscount Arnau of Castellbò died in 1226 and his daughter and successor in 1230, but they were condemned in 1269. Both sentences ordered that their remains, in case they existed, had to be removed from the sacred cemetery: “*ipsum Arnaldum quondam vicecomitem Castriboni, auctoritate Sedis Apostolice qua fungimur in hac parte, hereticum fuisse et decessisse sentencialiter iudicamus et sicut hereticum condemnamus, pronunciando insuper ut ossa ipsius, si discerni poterunt, exhumentur et procul de cimiterio fidelium eiciantur*”.⁵⁴ The same was immediately stated in the sentence against “*Ermessendem comitissam*”.⁵⁵ The count of Foix, as their descendant, had negotiated a payment of 45,000 shillings to the king to cleanse the memory of his ancestors and avoid the seizure of goods and rights in Castellbò.⁵⁶

Similarly, the reiteration of such strong measures impinged on the noble segments of society very directly, up to the point of altering the baronial balance of power by affecting leading families with large territorial possessions in the Catalan mountains. This was the case of Ramon de Josa, important lord of Josa, who, after different episodes of reconciliation and relapse into heresy, was finally condemned to have his bones disinterred and burnt in 1258 by the inquisitors in the Dominican convent of Barcelona in the presence of King James I: “*in ecclesia fratrum predicatorum Barchinone presentibus domino Iacobo Dei Gratia illustre rege Aragonum*”.⁵⁷

The neighbouring regions, which included the lordships of Pinós and Berga, in the same diocese of Urgell, were the target of a huge intervention by the Inquisition in 1257 with the participation of the archbishop of Tarragona accompanied by the bishops of Vic and Barcelona, the see of Urgell then being vacant. Important local barons serving the lord of Pinós were taken prisoners, sent first to Tarragona and then moved to prisons in their own region.⁵⁸

Thus, the activity against heretics, living or dead, in the decades after the middle of the thirteenth century destroyed traditional leading noble and baronial families on both sides of the Pyrenees. Again in 1258, two leading barons in the Roussillon, Bernat d’Alió and Bernat de Sautó were burnt alive together in Perpignan.⁵⁹ With cases like these, the effect of the repression of the Cathar ideology on prominent nobles and barons was felt strongly in Roussillon, directly affecting the sectors traditionally closest to the house of the count.⁶⁰ Thus, the last body burnt after being dug up that we know about in Roussillon, in 1262 was the prominent Pere de Fenollet. His descendants

continued to claim their goods and memory until 1309.⁶¹ He had taken the Templar habit and was buried in the cemetery of the preceptory of Masdéu, being affected, like other companions from the same preceptory, by a judicial process, like Ponç de Vernet in 1260.⁶² This act, at the same time, showed the strength of the Inquisition in Dominican hands against the Templars. The latter were weaker than they seemed, as would soon be shown when, only half a century later, they had to face a process of dissolution where they themselves were accused of heresy in another context, which shows the flexibility of this accusation.⁶³

The force with which the inquisitors acted accentuated long drawn-out tensions. The most active inquisitor, Pere de la Cadireta, sought to reach a victory sentencing against the remains of Viscount Arnau of Castellbò and his daughter Ermessenda, Viscountess of Castellbò and Countess of Foix, who retained a place in the popular memory as the most famous and powerful protectors of Catharism in Catalonia.⁶⁴ However, Cadireta was actually killed in the viscounty of Castellbò in 1278–1279.⁶⁵ In fact, he was the third inquisitor assassinated in the Pyrenean lands in four decades, following the above-mentioned Ponç de Planès in 1237 and Bernat de Travessers around 1260.⁶⁶ In any case, it fits with what was happening all over Europe, where the Dominican inquisitors were also the target of deadly reprisals.⁶⁷

Nevertheless, at that moment, the Inquisition had a regular organisation in the Crown of Aragon, integrated into the ecclesiastical structure and related to the civil power. From 1229, the councils regularly held by the ecclesiastical province of Tarragona compiled the called *Constitucions Conciliars Tarraconenses* as a legal corpus to regulate questions related to the Church and its clergymen. The concern with heresy was among the reasons why the provincial councils met.⁶⁸ The council of 1239 decided on harsh ecclesiastical measures, with excommunication, against all those in the milieu that could have supported the heretics: “sacro approbante concilio excommunicamus haereticos, fautores, credentes et receptatores cuiuscumque nominis censeantur”.⁶⁹ This measure was repeated and updated by the later councils. The different enemies of the divine doctrine shared the same rejection, be they heretics, Jews or Muslims, which is why the council of Tarragona in 1243 dealt with all three groups together:

Item quod tam clerici quam layci in percipiendis medicinis et consimilibus prohibitam et dampnatam iudeorum familiaritatem evitent. Item heretici\valdenses, enzabatati/et similes necnon et fautores receptaturis et deffensores eorum excommunicati in precipuis sollemnitatibus nuntientur coram populo. Item de vendentibus vel mitentibus res prohibitas sarracenis.⁷⁰

The ecclesiastical punishments could not be anything except spiritual. The civil legislation, however, included corporal punishment in line with the seriousness of the deed. The customs of the royal city of Lleida, which were recompiled in 1228,⁷¹ unequivocally specified that if the bishop with the clergy took a heretic to be punished, he or she would be consumed by the flames of the fire: “si episcopus cum clericis suis tradiderit nobis aliquem pro heretico puniendum, illum solemus flamis tradere concremandum”.⁷² Lleida influenced the judicial structure of the south-western area of Catalonia,⁷³ although it was not part of the royal lands but rather under the jurisdiction of the preceptories of the military orders.⁷⁴ The relationship between heresy and the pyre was equally clear, as established in the ordinances approved in the Templar preceptory of Horta de Sant Joan: “Si aliquis fuerit iudicatus hereticus, flammis seu igne concremetur, et bona ipsius Templi dominio confiscantur”.⁷⁵

In 1235, King James I, invoking the improvement and reform of the kingdom—“volentes circa commissum nobis regnum provisionem debitam adhibere, et statum regni nostri cupientes in melius reformare”—presided over the ecclesiastical parliament held in Tarragona.⁷⁶ The Constitutions, the highest level of law, incorporated the legislation passed against heresy,⁷⁷ which emphasised the involvement of the monarchy in the defence of the faith.⁷⁸ This parliament showed the concern about the circulation of translations of the Bible, which was closely linked to heresy: whoever possessed one of these translations and who did not hand it over to be burnt would be considered a heretic:

Statuimus ne aliquis libros veteris vel novi testamenti in romancio habeat; et si aliquis habeat infra octo dies post publicationem huiusmodi constitutionis a tempore scientie tradat eos loci Episcopo comburendos. Quod nisi fecerit, sive clericus fuerit sive laicus, tamquam suspectus de heresi, quousque se purgaverit habeatur.⁷⁹

The same parliament incorporated another five constitutions against heresy, with the aim of impeding simple suspects from having access to the posts of royal territorial representatives, like the bailiffs and vicars so that the heretics could not receive any support in any case. Very significantly, joint investigation of suspicious places was established, so that the religious authority of the clergy was complemented with the royal jurisdictional authority because “super quo eidem Episcopo publice auctoritatem regiam impertimur”:

Statuimus ut in locis suspectis de heresi, in quibus Episcopus viderit expedire, unus sacerdos vel clericus ab Episcopo et duo vel tres a nobis laici vel nostro vicario vel baiulo eligantur qui hereticos vel credentes et receptatores eorum in suis parrochiis perquirere teneantur.⁸⁰

The king's constitutions established the seizure of the assets of anyone who helped heretics, but at the same time warned that the bodies of the guilty would fall into his hands to be punished according to his free discretion:

Statuimus quod quicunque in terra sua sive dominicatura de cetero scienter vel negligenter per pecuniam vel aliam quamcunque causam hereticos permiserit commorari, si in iure fuerit confessus vel convictus, ipso facto amittat in perpetuum terram suam; it tamen quod si feuda fuerint, suo domino applicentur; si vero alodia, nostro dominio confiscentur, et corpus suum in manu nostra, prout debuerit, puniendum. Si autem de scientia convictus non fuerit, et probata fuerit negligentia dissoluta vel frequenter inveniantur in terra sua heretici vel credentes; et super hoc fuerit diffamatus, nostro arbitrio puniatur.⁸¹

The royal authority took the concrete form of ordering the pyre for the body of the guilty and the seizure of their assets. So, in 1263, James I seized Berenguer Amorós's assets in Siurana after the latter was burnt as a heretic:

Damus et concedimus tibi Marie Prous matri Johanis de Archimbaldo quondam et tuis in perpetuum per hereditatem propriam francham et liberam totam hereditatem quod Berengario Amoros quondam condemnatus et combustus ratione heretice pravitatis habeat et possidebat in termino de Siurana quod hereditas nobis erat confiscata quando dictus Berengarius fuit condemnatus ut dictum est de crimene supradicto.⁸²

This was the culmination of the work carried out by the Inquisition in the mountains of Prades and Siurana the previous year, which led to seizures of goods and executions on the pyre.⁸³ There was high number of penalisations between the Pyrenees and the Valencian mountain of Sant Mateu, following the transhumance routes. These were well-connected places between Occitania and the north of Valencia, precisely on the drove roads.⁸⁴ Between 1258 and 1262, the king distributed many assets that he had received from people condemned as heretics⁸⁵ in Tortosa, Lleida, Morella, or Vallbona of Valencia.⁸⁶ This was at the same time that the above-mentioned executions on the pyre in Perpignan took place.

Thus, a similar fate must have awaited the defunct Guillem de Sant Meliό in Valencia because in 1277, King Peter the Great took possession of his farmhouse, confiscated because of his heresy and thus gave

per hereditatem propriam francham et liberam alcheriam quam Guillemus de Sancto Melione quondam habebat quando mortis sue Civitatem Valencie cum omnibus terminis pertinentiis et iuribus suis universis prout de iure adquisimus ac nobis confiscate et simul cum

aliis bonis dicti G. ratione criminis heresis de quo dictos G. fuit similiter condemnatus.⁸⁷

At that time, the Inquisition continued with the model that would be used until 1486 when it would be substituted by the Inquisition controlled by the king according to a new Castilian model.⁸⁸ Until then, the institution was based on the inquisitor—"inquisitoris heretici pravitatis"—, designated by the Pope—"a sedis apostolica deputati"—, with general powers over the Crown, assisted by deputies and vicars, who acted together with the bishop of each diocese, respecting the superiority of the archbishop of Tarragona. Nevertheless, in the north, the counties of Roussillon and Cerdanya usually had their own "inquisitorem heretice pravitatis in Regno Maioricarum",⁸⁹ both in the period when these counties were part of the Kingdom of Majorca from 1276, and also after they had been reintegrated into the Crown of Aragon in 1348.⁹⁰ This division was overcome in the fifteenth century with the consolidation of a single inquisitor for all the Crown of Aragon: "inquisore generali dicte heretice pravitatis in omnibus regnis et terris citra mare et Rossilione dicioni serenissimi domini regis Aragonum subiectis".⁹¹ The inquisitor was usually a master of the order of the Dominicans—"fratrum ordinis predicatorum magister"—, so through him, the Dominican order continued leading all the investigations against heretics. There was extensive cooperation with the Crown, including the transfer of royal emoluments and the support of the appropriate royal officials.⁹² This institutionalisation meant regular work, applying financial penalties, that were shared with the monarchy, who showed an identical zeal for the purity of the faith.⁹³

The Inquisition acted independently through a tribunal in the ecclesiastical see jointly presided over by the inquisitor and the bishop of the respective diocese. Delegation by the inquisitor to deputies was common, generating commissioners and delegates, who could act simultaneously in different places to increase the institution's power to act, or also substitute and succeed each other in the same judicial cases.⁹⁴ The stabilisation of the work of the Inquisition in the fourteenth century usually involved institutionalising a deputy for each diocese, often formally making the equivalence *locumtenensis sive comissarii*. The inquisitor entrusted tasks to these, especially in cases where especially serious punishment was expected.⁹⁵ Having a deputy in each diocese meant that the Inquisition could act simultaneously in various dioceses, thus increasing the power and mobility of its work.⁹⁶ The delegates could preside over the process until the sentence either on the side of the Inquisition or of the episcopate. So, the bishop delegated to the vicar of the diocese and as the inquisitorial work stabilised and became standardised, it became usual to delegate to the "official", the name of the officer charged with the episcopal

jurisdiction in each diocese. In 1427, for example, in Girona an important trial went ahead presided over by the official of the diocese and by the inquisitor's deputy: "The Milord the Bishop's officer and the Reverend Micer Pere Bramon, deputy of the inquisitor about the perverse heresy in the present city and bishopric".⁹⁷

The trial followed the Romanist structure, with the prosecution and defence, with the notary registering all the contributions and acts. The prosecution was often based on what had reached the inquisitor's ears by public repute (*fama publica*):

Noverint universi quod cum ad aures honorabilis et providi viri religiosi fratris Amandi de Vallo, in sacra pagina professoris, ordinis Fratrum Predicatorum locumtenentis sive comissarii Sancti officii Inquisitionis heretice pravitatis in civitate et diocesi Barchinone (...) fama publica refferent, voce clamorosa pervenisset.⁹⁸

In all cases, witnesses were questioned and, not infrequently, there were searches of the accused's surroundings, looking for books or proof of his beliefs and activities that were considered reproachable. If the evidence and the declaration of the accused were insufficient, torture could be used, although this also required an interlocutory sentence. In all cases, an appeal could be lodged with the court of the metropolitan archbishop of Tarragona. He was the highest authority, with only the Pope above him. The above-mentioned case in Girona in 1427 took place under strong social pressure, with a baker accused of practising witchcraft, even of being able to seize small children from midwives through closed doors. When she did not confess, an interlocutory sentence for torture was handed down, but her husband appealed to the archbishop of Tarragona.⁹⁹

The sentence established a degree of guilt that could lead, in the most serious cases, to punishment on the pyre. At the beginning of the fourteenth century, it was evident that the embers of the Cathar heresy were still glowing, as can be seen with the capture of Belibaste in Tírvia in 1321,¹⁰⁰ and his transfer to the other side of the Pyrenees where he ended up on the pyre.¹⁰¹ However, in these years, the Inquisition was inquiring in diverse directions. It was especially studying with mistrust the margins of the official Church, where spiritualist currents¹⁰² and poverty came together.¹⁰³

Menéndez Pelayo considers that both of those mentioned above as having been burnt in Barcelona and Valencia in the second half of the thirteenth century and those burnt in the first half of the fourteenth were not really Cathars but rather Waldensians or more probably Beghards.¹⁰⁴ In reality the Waldensians had been perceived as a danger for the faith in dioceses such as Barcelona a half century before.¹⁰⁵ Instead, at the beginning of the fourteenth century, there was a transition or overlap in the Inquisition's attention to movements

around poverty. The famous activities of Jacques Fournier between 1318 and 1325 in the Haute Ariège included demands that those interrogated swear oaths promising to abandon any form of heresy condemned by the Church.¹⁰⁶ In fact, the places where the Cathars were persecuted and those where the new Beghardism would continue to be persecuted were the same. They both shared a distrust of the flesh and the desire for poverty.

In the first quarter of the fourteenth century, there was concern about the radical beliefs of the Beghards and Beguines against the flesh, that led them not to embrace the celibacy of the established religious orders but rather more spiritual expressions that were, at the same time, contrary to such central pillars of urban life as marriage. Duran de Baldach from Girona clearly spread “errores begardorum de proprio scilicet et comuni et ulterius, quod matrimonium non erat nisi meretricium occultatum”.¹⁰⁷ The criticism of marriage is a clear indicator of the connection with the critical Beghardism that spread from Provence,¹⁰⁸ with popular authors like Pere Joan Olivi,¹⁰⁹ and radical ideas in favour of virginity. Thanks to these nuances or adaptations, the objections of Arnaldus de Villa Nova to marriage were lower than other accused people which helped this famous physician to overcome condemnation by the Inquisition in 1316.¹¹⁰ In 1321, the above-mentioned Duran de Baldach,¹¹¹ described as “cives Gerundensis”, with his companions,—“cum quodam suo complice”—was denounced by the local bishop and the inquisitor—“hereses fuerunt condemnate per dominum episcopum gerundensem et de Villamarino et fratrem Arnaldum Burgeti inquisitorem hereticae pravitatis”—for disseminating typical Beghard errors: “qui dogmatizavit hereses et errores begardorum”.¹¹² The trial was a very solemn affair, and was even attended by King James II—“presente domino Iacobo rege Aragonie”.¹¹³ It ended with a sentence handed down by the two churchmen, and which was very harsh because the accused did not want to recant. They were immediately transferred to the secular court to be burnt. This was done straight away: “*ipsi [the heretics] ut impenitentes fuerunt traditi curie seculari et ignibus concremati*”.¹¹⁴ There really was a group of Beghards in Girona; three lay members of this group died as a result of the Inquisitions' investigations.¹¹⁵

At that time in Catalonia and the south of modern-day France, the radical approach of the Beguines and Beghards led them to the pyre. This was the fate in 1322 of a *frater Castilio*, who seems to have been from Girona, executed on the pyre in Narbonne.¹¹⁶ This was the same scenario and the same origins in 1325 with the sisters Astruga and Maria de Cussach (also spelled Cursac), *begguinae postea combustae*.¹¹⁷ The alternative movement accepted this, the dead being given places

in the recognised pantheon of martyrs. This is why in 1323, the priest from Lodève was referring to “quemdam libellum pergameni in quo erant scripta omnia nomina begginorum qui fuerant combusti”,¹¹⁸ in a context of harsh repression in the region: “propter hoc quod condemnari et comburi faciebat quatuor fratres minores Massiliae et begguinos Narbonae et alibi comdenatos et combustos”.¹¹⁹ In these times, numerous Beguines and Beghards ended up on the pyre: “begguini ultimi fuerunt combusti in Narbona”.¹²⁰

During the two decades of his pontificate (1316–1334), John XXII took special care to orientate the inquisitors in the repression of Beguines and Beghards and certain members of the third Franciscan order in northern Catalonia, Provence and southern Occitania. This activity demonstrates the cultural contact between these territories, the acknowledged sympathy of the royal house of Majorca—that ruled Roussillon, Cerdanya and Montpellier—towards movements of poverty, and the generalisation of an alternative spiritual framework. That this was done so openly was shown by the Franciscan Guillem Negre when he preached publicly in Vilafranca de Conflent against the papal decrees in 1326. The episcopal commitment to the repression combined perfectly with the position of the inquisitors in the see in Elna, which ruled over Roussillon. It suffices to highlight that Guido Terreni, a renowned theologian with publications against Beghardism, was elected bishop of Elna in 1322, after having run the see of Majorca since 1318.¹²¹ In fact, the concern with heresy could influence the election of the bishop: some years later, in 1345, Bernat Oliver was bishop in Barcelona for only a year, just the time needed to punish heretics, as Perarnau notes.¹²²

Around the 1320s, some notable figures were sentenced to the loss of goods and life imprisonment. It is a measure that in 1235 Pope Gregory IX had recommended against heretics who had converted to the ‘true faith’ but then recidivated,¹²³ criteria adapted by the Tarraconense Church in 1246–47.¹²⁴ Nevertheless, at the same time, the same penalty was applied directly to heretics. In Carcassonne in 1237 this was the fate of Guilhem de Niort, who had confessed to heresy after being accused by witnesses (“cum ipse per testes legitime de heresi coram nobis sit convictus ac postmodum timore mortis publice suam heresim sit confessus et a nobis per sententiam ad perpetuam carcerem condemnatus”¹²⁵). He was condemned with his two brothers and his mother Esclarmonde, wife of the lord of Niort, one of the Occitan lineages damaged by the Inquisition.¹²⁶ The famous Franciscan, Bernard Délicieux, was arrested in 1317 on his way to Avignon, where he was tortured and sentenced to life imprisonment in 1319. He died in prison the following year.¹²⁷ In some cases, conversion could earn freedom from prison, although former heretics

were compelled to wear a sign on their outer garments as a token of perpetual shame. In 1322, the bishop of Pamiers and two inquisitors freed eight heretics under this condition: “in commutationem dicte penitencie et carceris quod in detestacionem veteris erroris in omni veste sua excepta camisa interiori portent perpetuo duos cruces de filtro crocei coloris”.¹²⁸

Many others died on the pyre around that time. Well over a hundred people were burnt to death in the first third of the fourteenth century in the main capitals of this part of modern-day southern France (Montpellier, Lunel, Béziers, Pézenas, Toulouse, Cabestany, Lodève, Carcassonne, etc.). Significantly, some of them had dealings with the other side of the Pyrenees. One individual found guilty by the inquisitor in Carcassonne in 1322 was from Castellbò¹²⁹ and the movement of many Beguines and Beghards shows the links between the communities of Provence and those in Catalonia.¹³⁰

Some of the Beguines and Beghards burnt in this context made express reference to the radical ideas of poverty, as mentioned in the declaration by Astruga de Rundaria or Cussach, resident in Narbonne but probably from the diocese of Girona: “quod Christus et apostoli numquam habuerant aliquid in proprio nec in communi, item quo dictus dominus Iohannes papa, qui nunc est, erat mysticus Antechristus”. This statement was among others with which the three accused persevered in their convictions—“fuit ibi lecta confessio unius earum qua lecta omnes perstiterunt”—which led them to the fire: “fuerunt combustae”.¹³¹ The movement for voluntary poverty gradually became the central point of the persecution of the Beguines and Beghards, in line with the condemnations of Pope John XXII against these doctrines. At this time, Josep Baucells pointed out, Begharism was seen in Catalonia as an extremely dangerous movement, although it was focussed inwards into its own communities with little influence over the wider population.¹³²

The same consideration as Beghard heretics was applied to the Majorcan Pere Oller and the friar Bonanat, who were tried in Barcelona in 1320 by the inquisitor Bernat Puigcercós and the bishop of the city. The former was condemned to be handed over to the secular arm to be burnt, while father Bonanat escaped this by abjuring his beliefs. However, after being judged to be a repeat offender, he was later burnt, and his house in Vilafranca del Penedès (a town that was an important centre of Begharism, a target of the inquisitors for at least 40 years)¹³³ was demolished. The same fate awaited those involved in an outbreak of heresy in Valencia in 1344, which was punished with the exhumation of cadavers. Punishment by fire was mentioned as the usual punishment in these cases. As detailed in the famous inquisitor’s manual of 1376, Nicolau Eimeric, who did not

convert, was handed over to the secular authorities for the death penalty to be applied on the pyre (“impenitent and relapsed heretics—whether they repent in the end or not—must be handed over to the secular arm”).¹³⁴ However, such a sentence could be commuted to life imprisonment if the accused confessed, even if this was extracted in extremis: “as for the accused who persist in the negative, if in extremis—including the case he or she is already burning—he or she wants to repent and confess, he or she must be saved and kept in prison for life”.¹³⁵

So, heresy did not automatically lead to capital punishment. Continuing with the trials of the Beghards and Beguines in Vilafranca de Penedès in 1344–1346,¹³⁶ assets were confiscated and the accused were prohibited from continuing to share their accommodation. This is what happened to those accused who lived together as communities under the Franciscan Third Order. In reality, Begharism and the Franciscan Third Order were perceived as one and the same, as stated in Barcelona in 1314, when Bertranda Eimeric was called “*de tercio ordine sancti Francisci que beguine vulgariter appellantur*”.¹³⁷ There were also abjurations which were followed by obligation to live in a certain place where the accused was kept under observance. Very often prison sentences were decreed. This usually took the form of life sentences. As Josep Perarnau warned, the increase in perpetual prison sentences instead of the bonfire contributed to reducing heresy, because it prevented the executed heretics from being worshipped as martyrs, as had repeatedly happened until then.¹³⁸ At the same time, in an exemplary way, the prison sentence could be reduced by abjuration, although any repeat offence would lead to the pyre. This is what happened in the Aragonese city of Tarazona in 1340.¹³⁹ All this followed the same dynamic evident in neighbouring countries.¹⁴⁰

The inquisitor could receive assistance from the secular authorities when making an arrest. An example would be the help lent by King James II of Majorca in 1315 on request from the inquisitor regarding Bartomeu d’Olms in the county of Roussillon.¹⁴¹ After this, there was no further contact between the two powers until the sentence. In these circumstances and if this led to a prison sentence, the inquisitor could also receive support from the secular jurisdiction. Indeed, in Roussillon in 1333, the inquisitor received the assistance of a royal sergeant to keep people accused of heresy under arrest: “*intravit domum vocatam La Murada quae est in villa Perpiniiani ubi haeretici capti detinentur praesentando se Perpinyano Sabaterii, sagioni domini Regis Majorice deputatoque ad custodiendum haereticos qui in dicta domo capti detinentur*”.¹⁴²

In any case, the accused was always handed over to the secular authorities when there was death sentence, which was usually on the

pyre. In these cases, the transfer from the ecclesiastical jurisdiction to the civil authorities was automatic: the ecclesiastical court carried out its investigation and dictated the sentence. The culprit was then sent to the secular authorities, with the sentence and the petition for the application of a specific punishment. That is why the secular authorities did not repeat the trial. Instead it accepted the proof presented to the ecclesiastical court and which had been used to decide the sentence based on the confessions and evidence in the documentation provided. This was detailed in Lleida in 1447:

We, Sir Gispert de Pons, as court and vicar of the city of Lleida for his majesty the king, seen and understood the deliveration that has been done to me and the councillors below mentioned of Brahim Caradi, Moorish *alfaqui* from Seròs, by the very reverent lord Garcia, by the divine providence bishop of the city, and the reverent master Rafael de Ribes, of the order of Saint Dominic, deputy of the inquisitor; seen and still understood the confessions made by the below said Brahim Caradi in power of the below mentioned in which the said Brahim has confessed and said various heresies, invocations of devils, adorations of devils and many other errors against the Catholic faith according to what appears in the process for this reason for the below said bishop and deputy of the inquisitor, which process has been done by the discrete Pau Sent, notary by royal authority; and also seen and heard that the said accused has presented in the said heresies convocations of devils, black magic and errors in presence of the major people of the city; thus, we, the said court, sitting with us the honourable Joan Romeu, Pere Cortins and Gabriel Espolter councillors of the present year in the City Council, and according to the regulation by his majesty the king, we judge that the said Brahim Caradi be burnt so that he dies and becomes dust of the flesh and all the bones and hearts of the said Brahim Caradi.¹⁴³

This behaviour, in the case of Lleida, corresponded to the above-mentioned customs of 1229, which committed them to take the heretics who were sent to the pyre by the bishop and the clergy.¹⁴⁴ In reality, this same conformism was shared by all the courts of the country. So, it was usual everywhere to refer to these sentences as the simple will of the ecclesiastical tribunal. The common language summarised this, placing the emphasis and the responsibility on the ecclesiastical tribunal and more directly in the inquisitor. So, in 1359, to carry out an execution on the pyre, the vicar of Barcelona limited himself to mentioning that the accused was a man the inquisitor had ordered to be burnt: “I hom que l’enqueridor féu cremar”.¹⁴⁵

When the secular court received instructions from the ecclesiastical court, it limited itself to staging and proclaiming the sentence automatically. This was seen in Majorca in 1407. The vicar of the

bishop of Majorca and the inquisitor sentenced a convert accused of heresy to death: "Friday, the 4th of February in the said year it was in the place called Pairó, close to the Cathedral by the Lord the bishop and the Inquisitor of the heretics".¹⁴⁶ This led to a conviction, with which the culprit was ceded to the secular court: "according to this sentence, the secular court must act over this heretical being, and against him given that he is a heretic".¹⁴⁷ When the culprit reached the secular court, the bailiff's, it went ahead to do what it was asked to do. It did not open any investigation but organised the formal act to proclaim a sentence with the authority presiding over the court assisted by his legal assessor: "the bailiff of Majorca presided over his court with his legal assessor to give his sentence against that [the accused man]".¹⁴⁸ In this specific case, the governor interfered and ordered the process stopped. However, after the governor's order was countermanded, the bailiff continued the procedure: "the next evening the said noble Governor revoked the said stay of execution and the bailiff with the eminent citizens condemned the said convert to be burnt".¹⁴⁹

It is clear that when the convict was handed over to the secular court anywhere, it proclaimed the sentence, but without any prior legal procedure. Delivering someone to the secular arm did not mean that another trial was held. Rather the lay court proclaimed a sentence that accepted the verdict of the ecclesiastical court and then carried it out without hesitation. The conviction to the pyre was applied immediately. The above-mentioned sentence in Barcelona in 1359 included costs that illustrate the procedure to be followed:

Give to Francesc Saperia head of the guard who advanced money to buy five bundles of firewood to burn one man who the inquisitor had burnt, at 4 shilling the bundle: 20 shillings. Also it cost to transport the said firewood to the Predicants, where he was burnt, 1 shilling 8 pence. Also it cost for three bundles of fine firewood for shavings, 8 shillings 8 pence. And all that is 30 shillings 4 pence.¹⁵⁰

The expenses, as shown, included taking firewood to the Predicants (*Predicadors*), where the culprit was burnt. The execution right beside the Dominican convent stressed the origin of the sentence, although sentences were more frequently carried out in the normal places, such as the *Areny* of Lleida, on a sand bank in the river Segre.¹⁵¹ In fact, bearing in mind that the prisoner had been handed over to the secular authorities, the procedure was identical to other burning sentences regarding the forms and popular behaviour. The clearest particular item is that the reading of the sentence was often completed with a *pulxerimus sermo*, which showed an increased desire to make it exemplary.¹⁵²

In short, when the ecclesiastical court handed down a sentence, the

secular court usually acted as a driving force. The working of the Inquisition was effective and continued outside the degree of collaboration or tension between the Crown and the Inquisition. The royal officials followed the instructions of the inquisitors. However, if the two institutions (monarchy and Inquisition) had disputes about their respective powers, this affected the collaboration by the royal officials, who could be encouraged by the king not to obey the inquisitor. That happened when the latter moved towards a broad interpretation of his powers, one that would be detrimental to those of the king. This was behind the serious clash that arose between the inquisitor, Nicolau Eimeric, and King Peter the Ceremonious between 1369 and 1375. The king even tried to impede the former from preaching, banished him from his domains and directly opposed such aspects of his work as the persecution of the works of Ramon Llull, and of people in royal circles like the vice-chancellor Francesc Roma or his involvement in the convulsive jurisdictional scenario in Tarragona, where the jurisdictional co-domain between the sovereign and the archbishop was a source of tension.¹⁵³ In the first case, the inquisitor managed to have Gregory X address the archbishop of Tarragona to collect the works *in vulgari* by Llull, have them examined “per tuam ac dicti inquisitoris et aliorum magistrorum in theologia facultatem et iuris peritorum” and, if errors were found, have them burnt, if necessary with the help of the secular authorities: “eosdem libros comburas et comburi facias atque mandes invocato ad hoc si opus fuerit auxilio brachii saecularis”.¹⁵⁴ The actions by the inquisitor in this aspect were an interference in the ideological debate in aspects like the Immaculate Conception, where the Franciscans and Dominicans were on opposing sides.¹⁵⁵ Regarding the inquisitor’s action against Francesc Roma, the latter was excommunicated by the archbishop of Tarragona for the accusation by the bishop of Girona about his jurisdictional rights in his lordship of La Bisbal.¹⁵⁶ Then, in Tarragona, the inquisitor intervened in the jurisdictional disputes and favoured the excommunication of the governor of Catalonia, the royal vicar and the consuls of the city in the decade of greatest jurisdictional tension.¹⁵⁷ The institutionalisation of the figure of the inquisitor thus led to acts that came very close to the exercise of power, and interfering in existing jurisdictional conflicts. However, this did not endanger the lives of the people affected but, in contrast, opened conflicts with the holder of the jurisdiction, who could clearly block the inquisitor’s acts. This can be perceived in the reiterated and renewed tensions between Nicolau Eimeric and Kings Peter the Ceremonious and John I.

Nevertheless, the intervention of the Inquisition had to be justified by suspicions of heresy. So, it was more serious if the interpretation of

what heresy was meant that the inquisitor tried to enter areas that had traditionally come under the ordinary jurisdictional officials, or even groups of non-Christians under the royal aegis, like the Jews. In a very symbolic way, between 1389 and 1391, Jews in Montblanc were tried for owning a well-known book by Maimonides. On one page of this work those who identify Jesus of Nazareth with a Messiah are ridiculed, which is why this book was on the list that James I ordered burnt in 1263. Towards the end of the fourteenth century, a Jew from Montblanc was accused of having a copy (he was really accused by a convert of owning a book that contained blasphemies). This accusation was disputed, because if it were a case of blasphemy, the Inquisition could not enter into what was really a case for the ordinary jurisdiction. That is why the inquisitor insisted that what the book contained was not blasphemy but errors. At the same time, accusations against Jews generated more friction with the monarchy, which recalled its full and exclusive power over the Jews, who remained under its protection or of the person who held the jurisdiction, especially if that had been granted by the sovereign himself. This claim, in cases like that of Montblanc, led to long tense disputes between the inquisitor and the lord of that place, in this case, Prince Martin, King John I's brother and governor general.¹⁵⁸ To interpret these disputes between the inquisitors on one side and the members of the royal house who held Montblanc on the other, to see who had the right to punish a Jew accused of owning a book by Maimonides (although the book was never found), Jaume Riera deduces that what those involved really sought was financial compensation: "the florins of the Jews, and nothing else, is what all those who intervene in the process pursue".¹⁵⁹ Certainly, as the fourteenth century went by, together with the diversification of accusations, one can appreciate the increase in sentences that did not lead directly to the pyre but rather ended with fines.

In fact, the concept of the crime of heresy was evolving. In the first half of the fourteenth century,¹⁶⁰ the inquisitor Bernat de Puigcercós and the bishop of Vic dictated a sentence on a heresy in the city: "quondam mulierem Raimundam de Campis vulgariter nuncupatam incidisse in crimen heretice pravitatis propter quod fuit carceri perpetuo deputata". She was finally freed because she abjured her heresy: "per ipsos finaliter a dicto carcere postea misericorditer liberate prius coram eis omni heresi abiurata".¹⁶¹ However, faced with a predictable accusation for reoffending, the woman fled. Josep Perarnau interprets that the "factis dampnabilibus" that were the basis of the accusation against this woman were linked to her curatives practices or to witchcraft.¹⁶² Certainly, there was a clear evolution in the accusations of heresy as the fourteenth century went by, and

especially in the second half of the century. There were fewer accusations related to alternative religious doctrines that harmed Christian rectitude and, in contrast, a rise in accusations of sorcery, witchcraft or blasphemy. Heresy gradually came closer to blasphemy and witchcraft, under the devil's induction,¹⁶³ the lord of evil who took over the fears as the inductor of sin against the divine order.¹⁶⁴ As Alain Bourreau has already warned, the change coincided with the introduction of fear of the devil which entered Christianity between 1280 and 1330 to perpetuate and increase itself. The relationship between demon and heresy was signalled by Pope John XXII when in 1320 he asked a commission of theologians and canonists to explain the invocation of demons and witchcraft as heresy.¹⁶⁵

From this mutation, heresy, as Bourreau also noted, would no longer be a matter of thought and word but rather of certain deeds.¹⁶⁶ The evolution in the contents also meant a change in those affected, as is clear in Catalonia. From the mid-fourteenth century, accusations of heresy normally no longer led notable figures to the pyre but instead affected people from the lower levels of society. The way the sentence was carried out could also be tempered: a retraction of the heresy would not free the prisoner but would allow the punishment on the fire to be applied after the culprit had previously been strangled.

Consequently, during the second half of the fourteenth century, Beguines were not subject to ideological suspicion¹⁶⁷ but were the object of charitable assistance, evolving into Observant communities in Catalonia,¹⁶⁸ as well in neighbouring regions like Majorca.¹⁶⁹ Instead, the Inquisition attended to very different targets. In 1389, for instance, a woman called Borredana was arrested in Lleida for a fight in a hostel. However, once in prison, it was noted that she had knowledge of curative formulae and cast spells invoking the devil, so she was handed over to the tribunal of the Inquisition to be dealt with as a heretic.¹⁷⁰ Similarly, on the neighbouring Majorca in 1379, a Muslim slave of Ramon Oliver, accused of making “*aliquas perfumaciones adversus uxorem dicti Raimundi Oliveriis*”, was sent to the pyre along with her accomplice after the bishop and the inquisitor judged this behaviour to be heresy. The tribunal of the Inquisition ordered that the Muslim be burnt: “*quedam sarracena Raimundi Oliverii quondam ad comburendum*”. Her accomplice was explicitly defined as a Muslim and heretic, despite the apparent conceptual contradiction of being both a Muslim and Christian heretic at the same time: “*lata sententia per reverendum Dominum Maioricensem Episcopum et per venerabilem magistrum P. Corregerii, per quam extitit pronunciatum dictum Sarracenum fore ereticum*”.¹⁷¹

Similarly, those accused of heresy were now concentrated in the lower levels of society. This was where many people who were not

Christian were trapped, especially Muslims in the western and southern territories, with their large Muslim communities, both in the cities of Tortosa and Lleida and their rural surroundings.¹⁷² In Lleida in 1447, the above-mentioned Brahim Caradi was given the death penalty for heresy, an accusation that included practices like black magic, invocations of the devil and the diffusion of errors against the Catholic faith.¹⁷³ He was a “Moor”, and his sentence shook the Islamic community because he was an *alfaqui* from Seròs, one of the most important Muslim population centres on the lower Segre as a result of the concentrations imposed after the twelfth century conquest.¹⁷⁴

The public notice announcing this execution justified the intervention of the justice by the law, tradition and the duty of honour and reverence to God—“by right and praiseworthy and antiquated practice and for the honour and reverence of our lord God and exaltation of the holy Catholic faith and example and memory of the Christian faithful” —, and concluded wishing explicitly for God to grant peace, rain and health: “God who gives us peace, rain and health”.¹⁷⁵ This was the usual formula, but still denotes the urge to ensure these precious elements through the connivance with what were interpreted as the designs that pleased God. This was very clearly the aim of a case in Girona in 1427. The local society was especially fearful after having suffered a serious earthquake.¹⁷⁶ The devil and the evil spirits were even perceived among the ruins. When the monks of Amer Monastery organised a procession carrying God in the form of the Eucharist, the people saw evil spirits fleeing, as the councillors of Girona explained: “the Abbot and the monks and clergy made a procession, saying devout prayers and carrying the holy body of Jesus Christ; and among these men going their way, what was identified as bad spirits fled and vanished”.¹⁷⁷ Nobody doubted that the earthquake was God’s punishment for the society for having tolerated some sinners, as the councillors of Girona told the king: “These destructions, lord, we believe to be the cause of God’s wrath, allowing these earthquakes in great vexation and tribulation of your subjects; and the innocent and the just bear the sorrows for the iniquities of the sinners”.¹⁷⁸ Shortly afterwards, the city council of Girona informed the archbishop of Tarragona that they had found the cause of God’s wrath that had provoked the earthquake. This was the wife of a baker of the city who had worshipped demons and made sacrifices of children, either very young or stillborn: “such crimes (...) believing that they are the cause of these scourges of earthquakes that our Lord God allows in punishment for our sins and guilt”.¹⁷⁹ Without any doubt about that, the municipal government addressed the archbishop of Tarragona. He had the trial stopped for an appeal against the interlocutory sentence of torments. Given this, the council

of Girona asked him to decide rapidly so that she could be tortured and so the truth could be known and God's wrath placated. Thus, a desire to avoid insolence towards God presided over a radicalisation under the heading of heresy.¹⁸⁰

This was a very widespread phenomenon in Europe, where Alain Bourreau places the genesis of demonic obsession between 1430 and 1450, familiarising society with Witches' Sabbath and the systematic persecution of witches.¹⁸¹ This preoccupation coincided with the increase in catechistic, polemist and essayist texts in the later centuries of the Middle Ages.¹⁸² This general concern about demonic obsession focussed on other traditional enemies of the faith, especially the Jews, which were usually declared enemies of God as deicides. The intersection between heresy, witchcraft, Judaism and the devil was easily conceived all over Europe.¹⁸³

Persecution of the Jews concentrated more directly on the damage they caused to the Christian religion through their errors. In 1371, the inquisitor Nicolau Eimeric wrote an explicit "*Tractatus brevis super Iurisdictione inquisitorum contra infideles fidem Catholicam agitantes*" to endorse these powers.¹⁸⁴ However, this pretension generated serious disagreements between theologians and jurists and especially the open opposition of the kings, first Peter the Ceremonious and then John I.¹⁸⁵ They did not want any interference in a question they considered as exclusively linked to their Crown as the Jews, with all that meant for their financial contributions, remaining under royal punishment.¹⁸⁶ John I asked the Pope in 1387 to remind the inquisitor about the monarchy's exclusive rights in dealings with Jews and Muslims, while the inquisitor could only deal with themes linked to the Christian faith:

The Holy Saint Father the Pope ordered the inquisitors for the heretics that are in the kingdoms and lands of the said lord do not interfere taking trials or doing sentences against Jews, Moors or any other infidels which had done or told some things against the Catholic faith or against their Law, because these items only belongs to the said king.¹⁸⁷

Several specific cases, especially up until 1391, reopened the tensions around the activities by the Inquisition against Jews, like the above-mentioned case of errors in a work by Maimonides that a Jew from Montblanc supposedly had, although this was never found. In that case, in December 1390, the town's lord, Prince Martin, ordered his officials not to tolerate the interference of the Inquisition because his legal assessors had confirmed that they lacked the legal power to intervene there:

We have to warn that according to eminent wise jurists and doctors of our council, that the whole competence about the body and the soul

of the Jews belongs to us, as a temporal lord, and that the Church, as well as everybody who uses the jurisdiction on behalf of it, does not have any rights. We have known that the archbishop and the Inquisitor, as well as father Guillem de Tous acting as deputy of the inquisitor, have made certain citations to the Jews, damaging to us. For this reason and required by our fiscal, we order, through our patent letter, the inhibition of said archbishop, inquisitor and his deputy, and require them from here forward not to interfere in the different affairs regarding the said Jews, because the jurisdiction over the latter belongs to us and not to them.¹⁸⁸

In contrast, the investigations by the Inquisition that led Muslims of lowly origins to the pyre throughout the fifteenth century were not disputed. It can be suspected that the financial penalties that it was expected punishing the Jews would generate was a main element in the dispute about powers to act. However, a sharp rise in impoverishment and even indebtedness in the Jewish *aljamas* and their loss of social weight helped to move the focus of the Inquisition and other harsh financial demands away from these communities.¹⁸⁹

Based on these findings, the Inquisition concentrated on Jews who had ceased to be so, in other words, the converts. This was precisely due to the mistrust with which converts were viewed when they sometimes continued to maintain contacts with their previous co-believers.¹⁹⁰ This breach of faith would lead them to be burnt on the pyre by the Inquisition. This was the case, in 1346 in Perpignan, of “Iohannis Daviti conversi qui conventus de crimine heresis fuit in villa Perpiniani his diebus ad incendium condempnatus”.¹⁹¹ Thus, those converts who could be shown to be hiding their old Jewish faith came to be accused of heresy. This was indicated explicitly on Majorca in 1407 in the case of Jaume de Galiana, a convert—“Jacme de Galiana convers”—, who had twice been found to be a false convert (“per duas vegades havia abnegada la fe Christiana”). This was reason enough for him to be declared a heretic: “fo declara aquell esser heretge e contra aquell axi com eretge deure esser procehit”. Once declared a heretic, he was handed over to the secular court—“anant per la cort secular”—so that it could burn him on the pyre.¹⁹² This was not a singular case but rather a representative example of the evolution that characterised the Inquisition in the fifteenth century. The Inquisition justified itself in the pursuit of heresy—“Inquisitio heretice praevitatis”—but with all naturalness, would focus its activity in the last medieval century on pursuing converts, especially from Judaism. There was no need to find any deviated doctrine, simply the old hidden faith despite having been accepted into the Christian faith through baptism.¹⁹³

This context allows us to understand that the change to the new Inquisition in 1486, beside the inherent political considerations, was

the culmination of an approach through theory and experience clearly indicated in the previous decades.¹⁹⁴ Apparently the two different chronological moments seem very different. At the beginning of the Late Middle Ages, heresy was identified with an elaborate alternative doctrine, affecting socially well-positioned people; and at the end of the Middle Ages this accusation was used in a very trivialised way, increasingly finding guilty people from lower social levels. However, in both cases, accusations of heresy were related to the concern to maintain a certain social order, the alliance between Church and political power to this end, and the resort to the harshest of punishments, with the clear aim of instilling fear and terror into the behaviour of the population. In the end, the harshest of punishments was applied to be seen and thus transmit a determined ideology and, especially, specific emotions aimed at conditioning social behaviour. The inquisitors had no doubt about their mission over the people in society: they had to control the deeds, words and thoughts of the accused.¹⁹⁵

In 1478, Pope Sixtus IV created a new Inquisition for Castile and Leon based on the royal appointment of clergymen to repress heresy completely separately from the ordinary bishops, as a kind of autonomous and very strict prosecutor, with few legal guarantees.¹⁹⁶ Despite initial tensions and doubts, due to which the Pope considered retracting it in 1482, in 1483, he approved the extension of the same model to the Crown of Aragon.¹⁹⁷ That means the end of the medieval, ecclesiastical Inquisition that had, on one hand, evolved towards intersections with the doctrinal and jurisdictional discussions and, on the other hand, had led to an increase in accusations against members of the lower levels of society. Its place would be taken by a new Inquisition, led by churchmen designated by the king and one that would act mercilessly against the enemies of the faith, whether Jews or false converts, the latter imagined as perverse and dangerous moles infiltrated into the official Christian religion.¹⁹⁸ The new model strengthened royal interference and eliminated the traditional guarantees, which is why its implementation was seen as interference by the representative institutions of the Crown of Aragon. Many tense situations arose, with violent acts (in Aragon the inquisitor was even murdered in 1485¹⁹⁹) and especially because of the opposition of the regional institutions in each of the Crown territories: Aragon,²⁰⁰ València,²⁰¹ Catalonia²⁰² and finally Majorca.²⁰³

However, by 1486, the new Inquisition was fully active in Barcelona.²⁰⁴ This was the same year that Pope Innocent VIII revoked the appointment of any inquisitor who had not been designated by the new inquisitor general.²⁰⁵ Very significantly and visually, the entry of the inquisitors into the different capitals was done solemnly and

involving all the ecclesiastical and civil powers, so that, as can be seen in the case of Perpignan, then capital of the counties of Roussillon and Cerdanya,²⁰⁶ according to the words of Pierre Vidal, “nothing was wanting from the high terror that this tribunal wanted to instil”.²⁰⁷ All the clergy, authorities and people were obliged to participate in the ceremony, under the threat of excommunication, and there the wide powers conceded by the king to the new Inquisition were read out. Then the municipal authorities and royal official, in other words, the bailiffs and vicars, had to swear solemnly that they would offer all their support.²⁰⁸ Thus, another scenario was imposed, one that ended the medieval period, because this Inquisition contributed to feeding the power of the sovereign over all of Spain²⁰⁹—from 1479, the Crowns of Castile and Leon and Aragon shared the same sovereign²¹⁰—and one that portrays a society intolerant to religious otherness.²¹¹

Indeed, a point was reached where the conversion or expulsion of those who were ideologically different was encouraged—the Jews in 1492²¹² and the Muslims at the beginning of the sixteenth century²¹³—and there was acceptance of a threat of heresy that led to obsessive campaigns and severe punishment of supposed crypto-Jews and any suspicion of deviation from the accepted Christian norms.²¹⁴ In the Inquisition, the fabrication of records with few guarantees—“the Inquisition’s archive was available only to the employees of the Holy Office”—justified handing the accused over to the secular authorities in this new context. In Saragossa between 1484 and 1515, 24% of the converts judged ended up on the pyre.²¹⁵

The ritual of execution on the pyre had to include popular participation, because this implied cleansing the social body by getting rid of the part considered contaminating and which also had a clearly instructive sense. Accordingly, the ritual could be more important than the victim himself and it had to be carried out even though the culprit had slipped away. This was the justification behind punishments in effigy.²¹⁶ The new Inquisition usually resorted to burning effigies when the body of the culprit was not available. In Lleida, in 1487, the statues of Ruiz and Joan Pujol were burnt.²¹⁷ Shortly after, members of the Falcó family, prominent members of the Jewish community in Girona,²¹⁸ were burnt in effigy in Barcelona in 1497 and 1501.²¹⁹

In short, these examples show that the cohesion of the society under such clear political and ideological criteria as the monarchy and Christianity at the same time defined the lines of rejection, in other words, of intolerance towards and exclusion of those who were inassimilable to the model adopted to unify society. These were not passing traits but rather ones that became encrusted among the characteristics of the modern social and political structures.²²⁰

Notes

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- 11 Antoni Rubió y Lluch, *Documents per l'història de la Cultura catalana mig-*eval**, Institut d'Estudis Catalans, Barcelona 1908 [facsimile, 2000], vol. 1, p. 241.
- 12 “Ego sum vitis, vos palmites: qui manet in me, et ego in eo, hic fert fructum multum: quia sine me nihil potestis facere. Si quis in me non manserit: mittetur foras sicut palmes, et arescat, et colligent eum, et in ignem mittent, et ardet”. *Evangelium secundum Ioannem*, 15, 5–6 (*Novum Testamentum Graece et Latine*, Eberhard Nestlé, ed. United Bible Societies, London, 1963/1969, pp. 278–279).
- 13 “sie cremat en manera que'n muyre e sie feyta pòlvora de la carn e de tots los ossos e cors”. AML, Administració de justícia, processos de crims 816, f. 145v.
- 14 See the exchange of opinions about this theme between Antoni Dalmau, Josep-Ignasi Saranyana, Franco Cardini, Pilar Jiménez and Flocel Sabaté in: “Tercer debat. Heterodoxia i Heretgia”, *L'espai del mal*, Flocel Sabaté, ed., Pagès Editors, Lleida, 2005, pp. 260–263.
- 15 Marcelino Menéndez Pelayo, *Historia de los Heterodoxos Españoles*, Biblioteca de Autores Cristianos, Madrid, 1998, vol. 1, p. 517.
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- 135 “quant a l’accusé persistant dans la négative, si in extremis, il dit se repentir et vouloir avouer, meme s’il brûle déjà, on lui accorde la vie sauve et on l’emmure à vie”. Eymerich, Peña, *Le manuel des inquisiteurs*, p. 233.
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- 143 “Nós en Gispert de Pons, donzell, cort e veguer de la ciutat de Leyda per lo molt alt senyor rey, vista e entesa la remissió que a nós e als pahers desús dits

és stada feyta Brahim Caradi, moro alfaquí de Seròs per lo molt reverent senyor en Garcia, per la divinal providència bisbe de la ciutat, e per lo reverent mestre Raffael de Ribes, de l'ordre de Sant Domingo, lochtenent de inquisidor; vistes encara hi enteses les confessions feytes per lo desús dit Brahim Caradi en poder dels desús dits en les quals lo dit Brahim ha confessat e dit diverses heretgies, invocacions de diables, adoracions de diables e moltes altres errors contra la fe cathòlica segons que apar en lo procés per aquesta rahó per los desús dits bisbe e lochtenent de inquisidor, lo qual procés és stat feyt per lo discret en Pau Sent notari per autoritat real; vist encara e hoit que'l dit delat ha presentat en les dites heretgies convocations de diables, nigromàncies e errors en presència del maior poble de la ciutat; per tant, nós, dit cort, assidents a nós los honorables en Johan Romeu, en Pere Cortins hi en Gabriel Spolter, pahers l'any present de la paheria iuxta l'ordenament del senyor rey jutjam que'l dit Brahim Caradi sie cremat en manera que.n muyre e sie feta pólvora de la carn e de tots los ossos e cors d'aquell dit Brahim Caradi". AML, Administració de Justícia, Processos de crims,816, f. 145v..

- 144 Loscertales de Valdeavellano, *Costumbres de Lérida*, p. 72; *Els Costums ed Lleida*. Ajuntament de Lleida, Lleida, no date of publication, p. 113.
- 145 "I hom que l'enqueridor féu cremar". ACA MR 1475-1, f. 88v.
- 146 "divendres a IIII. del mes de fabrer any dessus dit fo promulgada sentència en lo loch apellat del Payró pres la Seu de part del Vicari del Senyor Bisbe e del Inquisidor dels eretges". Jaime Villanueva, *Viage literario a las Iglesias de España*, Real Academia de la Historia, Madrid, 1851, vol. 21, p. 246.
- 147 "per la qual sentència fo declarat aquell esser eretge e contra aquell axí com eretge deure esser procehit e anantat per la cort seglar". Villanueva, *Viage literario a las Iglesias de España*, vol. 21, p. 246.
- 148 "lo batlle de Mallorques volent procehir a donar la sua sentència contra aquell assechse en los cancells de la sua cort ab son assessor". Villanueva, *Viage literario a las Iglesias de España*, vol. 21, p. 246.
- 149 "Lo die dessus dit hora de vespres lo dit noble Governador revoca lo dit sobresehimient e lo dit batlle ab prohomens condemnà lo dit convers que fo cremat". Villanueva, *Viage literario a las Iglesias de España*, vol. 21, p. 246.
- 150 "Done an Ffrancesch Sopera cap de guaita los quals havia bestrets en comprar V somates de leya per cremar I hom que l'enqueridor feu cremar, a raó de IIII sous la somada—XX sous. Item costa la dita leya de port tro a les preycaderes on fo cremat. I sou VIII. Item costaren III somates de leya prima per ensenays VIII sous VIII. Et axí són XXX sous IIII". ACA, MR 1475-1, f. 88v.
- 151 Maria Pau Gómez, "La ciutat de Lleida contra blasfems, heretges i bruixes (s. XV)", *Miscel·lània Homenatge a Josep Lladonosa*, Institut d'Estudis Ilerdencs, Lleida, 1992, pp. 282-284.
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- 158 Riera, "Un procés inquisitorial contra jueus de Montblanc", pp. 60–65.
- 159 "els florins dels jueus, i no altra cosa, és el que perseguien tots els que intervengueren al proces". Riera, "Un procés inquisitorial contra jueus de Montblanc", p. 67.
- 160 The facts are known from because the accused as claimed to be reincident on the 3rd of August 1345, so the sentence dates from before. The bishop of Vic, Galceran Sacosta, who ran the episcopate between 1328 and 1345, and the inquisitor, Bernat de Puigcercós, acted on this. From this we have to deduce that the data that places him as the inquisitor general in the distant 1315 is erroneous. (Josep Hernando, "'Questio disputata de licitudine contractus emptiois et venditionis censualis cum conditionis revenditionis'. Un tratado sobre la licitud del contrato de compra-venta de rentas personales y redimibles. Bernat de Puigcercós, O.P. (siglo XIV)", *Acta Historica et Archaeologica Mediaevalia*, 10 [1989], p. 14).
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- 177 "lo Abat e los monges e clerges faheren processó, dient devotes oracions e

portants lo sagrat cors de Jhesu-Christ; e faent la via dels dits homens presumints esser mals esperits fugiren e desaparegueren los dits mals esperits”. Enrique Girbal, “Miscelánea histórica”, 13/2, p. 56.

- 178 “aquestes destruccions, señor, creem esser causa excitant la ira de Déu, permetent aquests terratremols en gran vexació e tribulació de vostres sotmeses; e los innocents e justs portan pena per les iniquitats dels pecadors”. Girbal, “Miscelánea histórica”, 13/2, pp. 58–59.
- 179 “tals crims (...) crehents que són causa de aquets flagels de terratremols que nostre Senyor Déu permet en punició de nostres pecats e culpes”. Girbal, “Miscelánea histórica”, 13/3, p. 80.
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- 187 “lo dit sant pare man als inquisidors dels heretges que no s’entrameten dins los regnes ho terres del dit senyor [rey] de fer alguna conexença ho punició de alguns juheus, moros o altres infeels, los quals haian feytes o dites alcunes coses contra la fe catòlica ho contra lur ley ho secta, com açò s pertanga tant solament al dit rey”. Johannes Vincke, *Zur Vorgeschichte des Spanische Inquisition. Die Inquisition in Aragon, Katalonien, Mallorca und Valencia während des 13. und 14. Jahrhunderts*, Peter Hanstein Verlagsbuchhandlung, Bonn, 1941, p. 129.
- 188 “Nós havem trobat, d’acord de solemnes savis e doctors de nostre consell, que tota la conexença dels juheus pertany en cors e en ànima a nós axí com a senyor temporal, e que l’Esgleya, axí com d’aquells qui fora són d’ella, no cura; per què sabut que l archabisbe e l’Enquisitor, o fra Guillem de Thous axí com a lochtinent de l’inquisidor, ha fetes certes citacions als juheus novellament en nostre perjudici, a requesta de nostre fischal ab nostra letra patent fem inhibició als dits archabisbe, inquisidor e lochtinent seu, que d’aquí avant alguns fets tocants los dits juheus no:s entremeten, con la jurisdicció d’aquells a nós e no a ells pertanga”. Riera, “Un procés inquisitorial contra jueus de Montblanc”, p. 73.
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14 The death penalty applied to Jews and Muslims

Cohesion in late medieval society was built, to a great extent, around Christian values deriving from a radical realism that led to a highly anthropomorphised vision of God. The sufferings of society were interpreted as divine punishment and thus there was a fear of provoking divine wrath,¹ as the sermons by the preachers who travelled the country were wont to remind.² Consequently, the tolerance of indissoluble religious groups meant serious and growing difficulties, as it was popularly believed that tolerating them was the same as tolerating God's enemies. This belief was applied especially to the Jews,³ because of the popular opinion that they had a deicidal instinct, and that was the reason why they crucified Jesus Christ and consequently all their descendants were stained with the guilt of this action. In 1367 in Vilanova de Cubells (currently Vilanova i la Geltrú) a young man stopped a Jew in the street to mock him by asking a question: "Do you know, Jew, what part did your relatives played with Jesus Christ?"; and he himself add immediately the answer: "They crucified and killed him".⁴ In the same line it was believed that they were obsessed with stabbing God in his sacred forms when they could,⁵ as was repeated in some of the various clichés about Jewish cruelty assumed by the population.⁶ Their money-lending activity, which was well known among those lower sectors of the population in need of loans,⁷ and the stereotypical image of the wealthy Jew⁸ contributed equally to an animosity that made cohabitation difficult just when they had become excluded from the main economic and political spheres, leaving them highly vulnerable.⁹ In the fourteenth century, the moralist Francesc Eiximenis explained the tale of a thief who had murdered a Jew. The crime was uncovered by chance when the murderer talked more than he should and the corresponding lord had him rolled and hung. The mendicant explained the moral of the tale: God did not want Christians to commit this serious sin, not even when the victim was an infidel like the Jew. Indeed, he emphasised that not even a crime against a Jew went unpunished: "Look at the God's trial, how he punished this sin committed by the Christians, although he killed an infidel. You can see how God detests this sin,

and its maliciousness always calls God against he who has committed it".¹⁰

The Jews came formally under royal jurisdiction. Among the arguments to strengthen the king's power, he claimed full, supreme and exclusive power over the Jews,¹¹ and this consequently had to be reflected in the exercise of the law in its maximum expression, the death penalty. When a Jew was condemned to death in Guissona in 1371 by the local lord, the monarch's complaint was clear: "ex regaliis punicio iudeorum nobis, quorum sunt proprii ipsi iudei dum taxat specta".¹² However, as nobles and barons had full powers over their own domains, this completely undermined these royal claims. The Jews found themselves under the full power of the holder of the jurisdiction¹³ and, in practice, the king could do little more than make suggestions in the noble domains. Thus, in 1387 when King John I wanted Joan Albalà, a Jew who had been hung on the gallows in Móra, to be buried, he could do no more than intercede so the count of the *Muntanyes de Prades* (Prades Mountains) could take the decision as lord of that place.¹⁴

The inclusion of the Jews in the royal patrimony placed them in the orbit of the bailiffs who looked after royal assets and, finally, the general bailiff over the whole of Catalonia. The latter exercised greater judicial powers, and thus was responsible for dictating death penalties for Jews.¹⁵ The monarch allowed certain Jewish communities (*aljamas*) to exercise legal powers up to and including the death penalty, even for crimes known as *malsinut*, when individuals had not behaved according to the interests of the community. However, the royal bailiff was always in charge of the formal process and handing out the sentence.¹⁶

The royal official would hold the accused. He had to treat them in proportion to the gravity of the crime, which led to greater severity in cases that could lead to the death penalty. For this reason, in 1408 the Jewish *aljama* in Lleida complained about the awful conditions experienced by detainees in the dungeon of the bailiff which were so bad it was like torture. This they said should be restricted to prisoners clearly destined to be executed from now on:

As the bailiffs who until today have been accustomed to make great harm many times to some Jewish prisoners, that is that they put them in the dungeon for nothing and the dungeon is damp and full of water and is dangerous; and prison is not given as a torture more than for custody, we demand that the said lord wish that some bailiff who is now or in time will be, cannot put in the said dungeon any Jew or Jewess, except after seeing clearly by trial that that Jew or Jewess was worthy of dying. May it please his majesty the king.¹⁷

For murder or other offences that deserved it, such as robbery or

fraud, the ordinary justice called for death, as among the Christians, with the added consideration among the Jews of *malsin*. In these death sentences for *malsin*, as the king recalled in 1383, the bailiff would apply the penalties decided among the Jews without asking for any kind of guarantee or evidence about guilt or the type of offence. He would simply do so after they had paid a large amount to the royal exchequer.¹⁸ Those affected complained about this imposition, alleging financial difficulty verging on impunity, which could cause irreparable harm within the Jewish community, while recording at the same time that the punishment of *malsin* up to the capital sentence was part of the law of the Jews. This was highlighted in Lleida in 1408 when the community tried to obtain an exemption from the monarch for the following three years:

As his majesty the king had awarded and gave privilege to the said Jewish community (*aljama*) that any Jew who was caught *malsin* according to the law of the Jews that he could be hung so that he died, giving fifty pounds to our lord the king, ordered the said bailiff who, depositing the mentioned fifty pounds in his power, whenever he was requested by the said secretaries, he had to do the execution, and to hang the said Jew, and as now the said Jews see some *malsins* in the said *aljama* and do not dare to act or order against them because they cannot easily pay the said fifty pounds, given that there is not great power in the said *aljama* but a great scarcity. For this reason, big evils grow up in the said *aljama*, which can lead to a great destruction and irreparable sins. We demand that His Majesty the said lord, wish that in case it would be necessary that during the next three years continuously following to do execution of some *malsins*, that in the said time the said *aljama* has not had to pay anything for the said reason, and the said bailiff of Lleida has had to do the said execution without any payment and that under punishment of a thousand florins. May it please his majesty the king.¹⁹

Generally, Jews and Muslims sentenced to death were hung. The main difference between these groups and the Christians was that a Jewish or Muslim offender had to show his humiliatingly inferior position to the Christians even with the final torture. That is why they were hung not by the neck but by the feet. This practice was so common that it was contained in some municipal ordinances. When the death penalty was decreed in Monzón for anyone who disobeyed the rules for health regarding the use of the river water, it was specified that the Christians would be hung by the neck and Jews by the feet.²⁰ Only in specific places in the Crown of Aragon, such as Huesca, did the tradition state that Jews could, depending on the case, be hung by the feet or by the neck.²¹

When hung by their feet, they could take two or three days to die

(“when a man is hung by the feet, he takes two or three days to die” was explicitly mentioned in 1315),²² with congestion and dehydration gradually killing them. This was accentuated by the degrading treatment that went with this. The people took this type of execution as a kind of entertainment, throwing stones and sticking canes into the prisoner’s body. Children and young people were very prominent in this activity,²³ sometimes from the age of ten, in others “etatis XVII vel XVIII annorum vel circiter”, always “cum nonnullis aliis iuvenibus”.²⁴ This popular practice, also usual in the rest of Europe,²⁵ made the suffering and agony of the prisoner worse.²⁶ We have descriptions rather than images, because the contemporary drawings did not show a faithful portrait of reality but rather give priority to an expressive symbolism.²⁷ In fact, even the toponymy seems to echo this practice. In the city of Toledo, in the kingdom of Castile, a few decades after the expulsion of the Jews, in 1536, the toponyms still referred to the ancient Jewish cemetery and perhaps with former kinds of executions, as the way to gallows, the ossuary of the Jews or the place for people wounded by darts:

We went down the path of the gallows to reach the hill of the people wounded by darts (*Aseteados*), which is beside the Gallows and where we put a milestone; from this hill we return by the left side to Toledo, putting the delimitation between the land of Villarreal and with the Jewish ossuary until we find a fence.²⁸

This practice of stoning the hanging prisoner was generally tolerated by the jurisdictional authorities.²⁹ In this sense, it could be seen as a way of increasing the punishment. In 1375 Prince John, as General Governor, condemned two Jews in Saragossa for having swindled two Catalan merchants; the same sentence ordered both to death hanging by the feet and to stimulate the popular custom to stone the hanging people, explicitly wishing a miserable end for the condemned. All these elements were intended to stress the gravity of the crime, the perversity of the culprits and a social exemplarity (*opus exemplo*): “vestris expostentibus demeritis ad mortem sentencialiter condempnamus in hunc videlicet modum quod suspendamini per pedes et si mos patrie huius hoc habuerit lapidibus abruamini taliter quod vitam vestram sic miserabiliter finiat”.³⁰

However, the Jewish communities claimed royal privileges to limit these displays of cruelty, generally demanding custody of the body of the person hung, so that it was respected until it expired.³¹ That was also done outside the Crown of Aragon, as can be seen in Olite, in the Kingdom of Navarre, where in 1318, five men had to guard the gallows for four days and nights: “quinque hominibus qui eos in patibulo custodierunt quator diebus et quator noctibus”.³² A petition to the king to limit this brutality was sent from Majorca in 1315³³ and

led him to prohibit the stoning of Jewish prisoners while they were dying in 1347. He also conceded that a prisoner in Majorca could have a beam or a stone hung around the neck, to accelerate death and reduce suffering, as was usual in Valencia and other royal domains.³⁴ In 1386, Peter the Ceremonious explicitly prohibited prisoners from being stoned, poked or beaten with canes in Valencia, as this added more torment than the sentence merited.³⁵ The monarch would gradually accept that prisoners could be hung by the neck. Peter the Ceremonious did so in 1383 for Barcelona and Lleida,³⁶ as in other capitals of the Crown, such as Saragossa and Valencia.³⁷ The royal indulgence had already expedited that in specific cases, such as those accused of *malsin*, the punishment was applied in a milder way. Thus, in 1280, one condemned for this reason by the king himself, was bled to death, in line with a sentence by two masters of Law who had counselled that, given the nature of the offence, the execution should be carried out the mildest way possible.³⁸

The full autonomy that the jurisdictional lords exercised in practice left the adoption of mitigating measures entirely to their will. Thus, the bishop of Urgell, acting as lord of Guissona, in 1371 ordered that a Jew condemned to death should be hung by the neck: “ceperunt quendam iudeum et ipsum suspendi per collum in furca et occidi fecerunt”.³⁹

Those Jews who committed suicide in prison to avoid the predictable capital punishment did not prevent their bodies being subjected to the same degrading practices—similarly, the suicide of the Christians accused of having collaborated in the supposed deicidal crimes attributed to the Jews did not avoid the humiliating practices against their bodies like dragging, amputations and fire⁴⁰—but would not suffer for them, we can suppose that this was the reason behind the suicide.⁴¹ However, the best way to avoid such a humiliating and painful death was through conversion, which would allow the culprits to be executed as Christians.⁴² In Girona, in 1377, a Jew, Salvat Mossé, was explicitly condemned to “suspendatur per pedes taliter quod moriatur”, which he could avoid by converting and dying as a Christian under the name of Joan Pallarès.⁴³ It can be surmised that many of the conversions in these extreme circumstances were done for the same purpose.⁴⁴ A conversion only very exceptionally opened the doors to a full pardon, as in 1340 in Besalú, when a Jew accused of murdering a Jewess was granted a complete amnesty after conversion, taking into account that he explained to the king that this way his life as a Christian would have an enlightening effect on his wife and children.⁴⁵

The Jewish groups aimed to obtain stronger guarantees to ensure that executions took place *intus iudariam*. This is what Peter the

Ceremonious granted to the main Jewish communities or *aljamas* in the Crown in 1383.⁴⁶ Within their ghetto, it was also felt enlightening for the execution to take place where the crime had been committed. The negative view of those meriting execution meant keeping them away from places such as the cemetery. In 1291 the vicar of Barcelona was accused of breaking this custom by having a Jew hung in the Hebrew cemetery. The king ordered the body to be taken down and transported to the usual place.⁴⁷ In the neighbouring Provence, there was a specific Jewish gibbet in leading places like Arles, Dragignan or Eygueres, and although these gallows were occasionally moved, they were always exclusively for Jews.⁴⁸

In all cases, it was considered that the prisoner should be left on show for display, and not taken down or buried without the relevant royal permission. In 1301, James II informed Vidal Abnaçaya's relatives that they could collect his body and bury it as long as they did so "*secrete et oculte sive de nocte*".⁴⁹ The people close to the court, such the physicians in the king's or queen's houses⁵⁰ (a post traditionally filled by Jews),⁵¹ repeatedly took advantage of their influence to intervene in these cases. This happened in 1342 in the case of a Jew convicted of murder in Tàrrega⁵² and, three years later, in the person of a Jew hung for robbery in Montblanc.⁵³ In 1291, when Prince Peter, as the monarch's high delegate in Catalonia,⁵⁴ granted the request from the relatives of Isaac de Porta to be allowed to take down the body and bury him, he warned that this was an abnormal concession because the body ought to be displayed as an example to the populace. Prince Peter's grant, on 20th of October, stated that the burial in Montjuïc could take place from the 30th of December and only the nine people, explicitly named in the document, could attend.⁵⁵ This desire to combine the granting of permission with a reiteration of the rationale behind displaying the body would be repeated on other occasions. In the above-mentioned case in Montblanc in 1345, the king stated that he was acting "*de speciale gratia*" at the request of the "*magistri Fferrari Benvenisti fisici domestici nostri*", in favour of "*dictus iudeus vel eius cadaver*". However, the conditions were very harsh. The royal concession specified that the burial had to take place a year after the execution —"*si per unum annum a die qua inhibi positus fuit continue computandum steterit*"—, even if the body had fallen from the gallows during this period: "*si a dictis furtis ceciderit post lapsum anni superius expressati vel ante, dum tamen annus efluxerit antedictus*".⁵⁶ In other cases, the attitude of the same king was more conciliatory. He accepted Jewish requests regarding the procedure against the *malsin* in 1383. The monarch agreed to the execution taking place in the Jewry, with the bailiff to evaluate whether he should be hung by the

feet or the neck and for the body to be immediately handed over to the Jews who wanted to bury it.⁵⁷

Although the Muslim population did not provoke the same animosity that was projected towards the Jews, to a great extent because they occupied a lower social position, they were still seen as inassimilable and enemies of the faith. This justified various attacks on their neighbourhoods, some with serious consequences. An example of this is from 1383 when the municipal treasury in Tortosa paid to bury a Muslim who had died in an attack by the people of the city on the Muslim neighbourhood: “to Arnau Pinyol for missions he had done to bury the Moor who was killed the day some of the people rose up”.⁵⁸ In this context, the execution of Muslims for common offences meant a repetition of the scenes of ferocity seen when a Jew was executed. Muslim convicts were hung alive by the feet and left to die slowly while the people took part in a cruel celebration, insulting him, throwing stones and sticking canes into them, as in 1440 in Lleida with a Muslim accused of helping slaves to escape: “who was hung and caned because he brought slaves of the land”.⁵⁹ This was a common practice wherever there was a Muslim population throughout the Crown of Aragon. In Valencia, it was explained that “they caned one Moor”.⁶⁰ When the crime was considered execrable there were held to be more reasons for the cruelty. In 1326, in the city of Majorca, a Muslim captive was condemned to death for raping a child. He first had to run through the city among the populace while being scourged (“run through the town under beatings”). Fire was even used to beat him, because someone “beat him with burning canes”.⁶¹

The Muslim population's lack of influence explains why the acts of grace occasionally obtained by the Jews were almost unknown among Muslims. Moreover, the popular use of canes was seen to be a normal and constant resource when the prisoner was Muslim. That is why the usual and often repeated way for Muslims to escape this terrible death was conversion to Christianity, something that occurred much more frequently than among the Jews. Similarly, while Jews mainly received the death penalty for crimes committed within their own community, the Muslims had more relations outside their own community, and so became involved in crimes, such as robbery, committed in other parts of the city. This greater involvement also facilitated punishment in the place where the crime had been committed. It is not surprising then that the subvicar (*sotsveguer*) of Barcelona stated in 1370 that:

on 22nd day of the said month of December, we hung Abdellà, who was a Moor who became Christian and took the name of Tomàs, and by this trial of eminent citizens because he had robbed wheat in the Porch, where we hung him.⁶²

In general, sentences against Jews were spread all over the country while the Muslims were found mainly in the southern and western areas where they had lived since the twelfth century,⁶³ and in the capital.⁶⁴ Added to this was the fear of Muslim piracy, either with attacks on ships⁶⁵ or raids on the coast, the latter being greatly feared south of Tarragona,⁶⁶ especially in the Tortosa area⁶⁷ and Valencian lands.⁶⁸ This spread suspicion to the Muslim-origin population, but differentiating between “*moros negres*” and “*moros blancs*” (black Moors and white Moors), which increased the animosity towards the people who lived in the Muslim neighbourhoods, especially on the southern coast.⁶⁹ The numerous Muslim slaves were also viewed with distrust.⁷⁰ The ordinances on the island of Majorca explicitly classified the population into Catalans and slaves, the former being the descendants of the thirteenth-century conquerors and the latter being mainly Muslims,⁷¹ and who were imagined to dream and conspire to return it to the Islamic domain. In 1374, in the city of Majorca fourteen slaves were hung, including some so-called Tartars, the latter from among those brought from the eastern Mediterranean and who made up the majority of slaves in the Crown of Aragon in the fourteenth century.⁷² However, they were thought to have conspired together for a violent return of Muslim domain, with serious disloyalty to the sovereign and great harm for the city: “*quia voluerunt ignem ponere per diversa loca dictae civitatis et terram et regnum Maioricarum sibi ipsis retinere ac regi Sarracenorum tradere, dominum regem Aragonie inde penitus ab eodem removendo seu alias expoliando*”.⁷³

In this context, the capture of Muslim pirates allowed the spectacle of the executions to be renewed, as can be seen in Barcelona in 1412. Here, different treatment was also given to those who converted in the moments before execution, the converts were hung as Christians and the others as Muslims were also caned:

Die mercurii VIII^a die junii anno a nativitate Domini predicti fuerunt acanyatats decem serraceni et suspenci unus renegat et duo serraceni, qui noviter se babtizaverant; qui serraceni capti fuerunt in maribus Tarachone, in quidam galiota, per navim Raymundi Serra.⁷⁴

When the offence brought Christians and Semites together through shared complicity, the application of the death penalty always differentiated between them. Thus, in 1367 the General Governor Prince John, heir to the throne, sentenced, according to his council, a Christian accused of stealing and selling five consecrated Hosts; a Jew who bought them for 60 shillings to sell for 70; a second Jew who acquired them; and also a third Jew who did not say anything knowing it, facts that, under serious torture, all confessed to. The Christian was dragged and quartered, and the Jews were sent to the

pyre after the two were dragged.⁷⁵ As the prince himself was to proud to explain his sentence:

I had the hands cut off from the Christian and dragged and quartered and hung the quarters in various places and I ordered that the two Jews have their hands cut off and they were dragged and burnt, although [the accomplice] Mossè was only burnt.⁷⁶

The obsession with the accusation that the Jews had desecrated consecrated Hosts was a common, if typical, feature of the Late Middle Ages (the first known case dates from 1243). At the same time, theologians had perceived the real presence of God in the Eucharist, thanks to theories like transubstantiation.⁷⁷ With an approach based on Aristotelian physics, one that allowed the reality to be explained from combining material and form,⁷⁸ it is easy to understand that, according to Aristotelian terminology, although showing the physical accident of the wine, in reality it was transformed into the blood of Christ,⁷⁹ or sometimes into a physical body, as Ugolino di Prete Ilario portrayed symbolically in Orvieto Cathedral.⁸⁰ Some Jews could end up on the pyre, having been held responsible for consecrated Hosts that bled, as in Metz in 1385.⁸¹ In reality, the consecrated communion wafers stolen by the Jews could bleed in the same way that Christ's blood spouted over numerous corporals and altar stones in the late medieval period and at the beginning of the modern age⁸² to respond to any Eucharistic hesitation and furnish relics all over Europe.⁸³ Faced with the evidence that the wafers bled, the Jews should convert. So, in 1290, Henry of Ghent asked if it were necessary for the justice to penalise a Jew who repented and was baptised after seeing that: "*utrum iudaeus pungens hostiam consecratam qui videns sanguine emergente ex puncturis ipsam rubescere et viso miraculo convertitur et baptizatur, debeat pro isto delicto puniri a iustitia publica?*" The response the theologian gave was that capital punishment had to be avoided and the focus had to be on spiritual punishment by the Church, unless the Jew had been baptised: "*Quod etiam poena mortis plecti non debet (...) propter quod secundum suam intentionem talem maxime peccavit et puniendus ab Ecclesia fuisset, nisi susceptione baptismi ei reconciliatus fuisset*".⁸⁴

However, the harm caused by Jews dominated the response that people wished to see applied. In the fifteenth century, while protecting the Jews, Fe-derigo de Montefeltro clearly established the limits of tolerance when commissioning Paolo Uccello to make the Altar of Corpus Domini in Urbino.⁸⁵ The famous altarpiece shows in six panels how a woman sells a consecrated wafer to a Jew, how the latter burns it in his home and then blood starts to flow, surprising the Jew and his family (two children and his pregnant wife) and alarming the population when they see the blood, which is then why the

soldiers break down the door of the house, and how the Jew and all his family are punished by being put on the pyre all tied around a pole, and how they are all surrounded by the flames.⁸⁶ Although the wafers do not bleed, the Jews, imagined with the charge of deicide, were seen to be obsessed with stealing and breaking them. This is what the Christian faithful learned from seeing various pictorial depictions. These can be seen around the Catalan lands, for example, on altarpieces like the ones in Sixena or Vallbona de les Monges, with the wafers that are stabbed, bleeding or remaining untouched by fire.⁸⁷ The suspicion became a fatal accusation for the Jews condemned to the pyre for the theft of consecrated Hosts, as stated in many and distant places of Europe: in 1377 in Saragossa after a theft in Tardienta,⁸⁸ or in 1453 in Breslau (now Wrocław),⁸⁹ for instance.

The suspicion of such behaviour added to the traditional accusations against the Jews of ritual murders that involved the sacrifice of Christian children. Around Europe, executions like that of ten Jews together in 1282 or in 1283 in Claix, in the Dauphiné, contributed to the assembly of a commemorative martyrial literature on the Jewish side, while from the Christian viewpoint, the deeds were justified by serious accusations of ritual crimes committed by Jews.⁹⁰ In Barcelona, one Saturday in 1301, a child was found dead in the Jewish quarter and although there was nothing to suggest a ritual crime, the judge approached the case from the prejudiced belief that there had to be a Jew behind this death.⁹¹

The errors in the Jewish books harmed the Christian faith, according to the perspective of this religion, which is why they could be the subject of blasphemy or even heresy. We have seen it when the inquisitor general Nicolau Eimeric argued in 1371⁹² against the opinion of the monarchs who were zealous about retaining the punishment of the Jews within the royal orbit.⁹³ John I won papal support to limit the inquisitor's assertions, which were in fact rather unusual, because north of the Pyrenees the inquisition only dealt with Christians.⁹⁴ However, this dispute reappeared in specific cases until 1391. That year, the bailiff of Cervera held a Jew in prison "a instància del inquisidor dels heretges", and the king intervened to warn his officials in the town that the case had to be passed to the royal jurisdiction because the inquisition had no authority to act against Jews.⁹⁵ Between 1389 and 1391 the aforementioned investigation was carried out concerning a book by Maimonides owned by a Jew of Monblanc that disparaged Jesus. This became a long and convoluted discussion between the General Inquisitor and the Lord of Montblanc, Prince Martin. Although the case remained in ecclesiastical hands, the legal arguments contributed to move the Inquisition away from the Jews.⁹⁶ Nonetheless, the Jews also

gradually escaped the royal scope. The Jewish communities' (*aljamas*) loss of social and economic weight after 1391, then the growing economic difficulties that they experienced throughout the fifteenth century,⁹⁷ contributed to removing the Jews from among those that could be subjected to heavy fines, a frequent practice in the royal environs.⁹⁸

Beyond the accusations of crimes related to the supposed obsession of the Jews against a God identified with the Christian faith, Jews and Muslims could also be sent to the pyre for the same crimes that led Christian to be burnt, especially for offences against the order with which God had designed the world, as was the case with male homosexuality. As we have seen, the harshest punishment was justified by firm religious convictions derived from combining two basic elements for interpreting Christianity through Aristotelean realism⁹⁹ and populism: behaviour had to be adapted to the design for which God had created each thing, in this case for reproduction, and God's wrath should be feared, as he would punish a society that tolerated his enemies.¹⁰⁰ Although this reasoning was applied to everyone, including the Christians, it is evident that if the guilty not only violated God's designs but also did not respect his religion or even more, if they were his great enemies as deicides, punishment by fire was considered ideal. One can suspect a certain popular complacency when the accused were Jews. Indeed, the burning of Jewish holy texts had precedents, like the well-known burning of copies of the Talmud in Paris between 1240 and 1250.¹⁰¹ And one could read how Peter the Venerable desired the pyre for both these books and their authors, although he was referring to the eternal flames of Hell¹⁰²: "in aeternam flammam cum suis auctoribus merito concremanda proiiciam".¹⁰³ Given the context of a strong aversion to Jews among the dominant Christian society, the connection between the Jews and fire could easily spread. In fact, in many of the attacks on Jewries in a large part of Europe in 1349, these neighbourhoods were burnt down with their inhabitants inside.¹⁰⁴

In this context, in 1325, in an attempt to harm the Jew, Astruch Bonvehí, during his interrogation, the legal authorities in Besalú wondered whether he had sodomised a French boy, although this accusation could never be proven.¹⁰⁵ More forcefully, Isaach Mardofay was burnt in Barcelona in 1365. He was Jewish, homosexual and a paedophile, and was condemned for having had relations with young Jewish boys.¹⁰⁶ In Perpignan in 1403, a Jew, Isaach Salamó, was given the same sentence for being homosexual.¹⁰⁷

Nevertheless, numerically punishment for sodomy affected more Muslims of low social origins, both in capitals like Barcelona ("I moro que cremar" was registered in Barcelona on the 16th of November

1359)¹⁰⁸ and, especially in the western and southern areas with larger Muslim populations. Shortly before 1322, in his domain of Xiva in the neighbouring kingdom of Valencia, the count of Urgell had various Muslims accused of sodomy burnt: “illorum sarracenorum quos pridem comburi fecimus eo quia erant de crimine sodomico increpati”.¹⁰⁹ These included some notable figures, like the *alfaqui* who ruled the Muslim *aljama* of Xiva,¹¹⁰ and who had lent his lord a large sum of money in 1318.¹¹¹ If we recall that we have seen in the last chapter that in 1447, the inquisition in Lleida had the *alfaqui* of Serós burnt for heresy,¹¹² we can observe that one way or another, punishment on the pyre was used to intimidate the religious leaders of the Islamic communities.

The order established by God was also sundered when heterosexual relations were held with people of another religion. In January 1391 in Lleida, Aznel del Crespo, a Castilian Muslim—“Aznel del Crespo, Moorish natural de Camarma, village in Guadalajara in the kingdom of Castile”—living in Lleida and working as a potter, was judged for having had sexual relations with a Christian prostitute, also Castilian—“Elionor Alfonso de Zamora of León in the kingdom of Castile”.¹¹³ She alleged she had not known the identity of her client, and the trial by eminent citizens condemned the Muslim who had had relations with her to death on the pyre:

With council from honourable sir Guillem de Guissona, doctor in law and Salvador Botella, councillor and of ten eminent citizens, which we, the said councillors, met in the said house of the Council, according to the ordinance of his majesty the king, judged that said Aznel del Crespo be burnt in the arena of Saint John until he die.¹¹⁴

The inherent perversity with which these crimes were contemplated was seen as even worse if found in the same prisoner. In Lleida, in 1458, Mahoma Mofari and Açen, two Muslim potters (*moros cantarellers*) were sentenced to the pyre for having committed “very nasty and horrible things”¹¹⁵, such as having had mutual homosexual relations and also heterosexual ones with Christian prostitutes. The offence to God and religion was the key to the seriousness of both charges:

They would have committed that abominable and detestable crime to God and people very hateful, against nature, sleeping the one with the other carnally in great offence to the divine majesty and still would be found in quiet places with Christians and would have committed with them and tempted them in dishonest and carnal acts in contempt of the holy Catholic faith and the temporal justice.¹¹⁶

The exemption for conversion could also be applied in these cases in which the accusation did not refer to the faith. In this same accusation, Mahoma Mofari reached the pyre after having previously

been drowned thanks to having converted to Christianity: That he had gone for the city and accustomed places and be taken to the arena beyond the bridge and that he be first drowned, given that he is Christian, now newly baptised called Pere Cirera and that there he be burned and turned to dust.¹¹⁷

In the Valencia region, with a high Muslim presence, Muslim men who had sexual relations with Christians were also burnt on the pyre, although the opposite case, of a Muslim woman with a Christian man, was easily commuted.¹¹⁸ In Tortosa, as mentioned in [Chapter 7](#), the local legislation specified how the accused, depending on their gender and religion, were dealt with. A Muslim or Jewish man who had had sex with a Christian had to be dragged, and, unless she had been forced or tricked about the identity of her partner, the woman had to be burnt, so both lost their lives: “in such a way that they died”.¹¹⁹ In fact, trials held for this crime sentenced that the man be dragged and broken (*rocegat e trencat*) and the woman burnt.¹²⁰ Although the number of accusations in this city was much higher than the cases judicially proven,¹²¹ on several occasions it was stated that “Christian who went with a Moor”, that is the “Moor who went with a Christian”, which led to the death penalty for both, as happened in 1388.¹²² However, when in 1391, Pere Vilar’s wife’s adulterous relations with a Muslim—“lady Maria, wife of Pere Vilar, who was said to be sleeping with I Moor”—culminated in the murder of the husband by the lover—“the Moor who killed the husband of said Maria”—the latter, found guilty of murder, was sent to the gallows and only she was taken to the pyre.¹²³

Sexual relations between Christian women and non-Christian men, especially Muslims, showed greater social interaction, particularly amongst those of lower social status. Conversely, the greater rejection of the Jews, who were seen to have a large number of negative traits, hindered sexual rapport with Christian women. In cases where these relations were proven, they led to the death on the pyre. In 1381, there was a singular case in Majorca, where a Jew had sexual relations with a Clarissan nun. He was burnt and she also received a death penalty: “Die lunae XII. mensis augusti, anno a Nativitate Domini M.CCC.LXXX primo fuit combustus quidam Judeus vocatus Saydo Davidis, pro eo quia supposuit quondam monialem ordinis Sanctae Clarae, quae eadem ratione interfecta fuit”.¹²⁴

The ban on relations between different religions acquired a specific importance when, after the serious wave of assaults on Jewish quarters in 1391, the rate of conversions accelerated,¹²⁵ many of which divided families with the consequent personal, family and social ruptures.¹²⁶ Suspicions immediately arose about insincere conversions that hid relations between converts and their old co-

religionists. Owning Jewish pious books to maintain the Jewish faith would reflect these false conversions, and could be considered serious enough to merit capital punishment.¹²⁷ The distrust of the conversion of Jews was even part of popular belief, as shown by the story that placed the usefulness of the water used to baptise a Jew on the same level as the water reputed to improve the appearance of an old woman: “three waters are wasted: those that are added to wine and that which is used to baptise an old Jew and that of the bath that serves an old woman”.¹²⁸ As we have seen, by the mid-fourteenth century, the inquisition was already sending converts who had secretly maintained their Jewish faith to be burnt, fully equating this with heresy, as reasoned in Perpignan in 1346 when Joan David was led to the pyre.¹²⁹ A fiery death was not immediate: in Majorca, Jaume Galiana avoided it the first time he was accused by promising to correct his behaviour. When he was caught again keeping up Jewish traditions he repeated his repentance (“twice he had abnegated the Christian faith and now he has come secretly to reconcile himself again”¹³⁰), but this was not accepted and he was declared a heretic (“was declared that person heretic”),¹³¹ which meant capital punishment on the pyre. As we have seen, maintaining the suspicion of converts and pursuing their possible deviations became the central axis of the inquisition in the fifteenth century.¹³²

In this climate of distrust of converts, what the authorities especially wanted to prevent was converts maintaining relations with members of their old faith, so attempts were made to break any family relations. In fact, the converts initially even established agreements with their old co-religionists, because they usually sold their seats in the synagogue, houses and other assets and rights they had in the Jewish quarter, which in fact often consolidated work and commercial links.¹³³ However, the perception that these relations were very negative became common among Christians because those who kept their Jewish faith would be contaminating the former in any of the aspects of everyday life or thought.¹³⁴ So, the simple and suspicious proximity between Christian converts and Jews would be subject to capital punishment, thus any relation for economic, family or any other type of activities had to be avoided, in a clear statement for fear of annoying God. This situation was exacerbated by the conversions that followed the serious assaults of 1391 that had fragmented families and stripped the converts of basic references in all aspects of their everyday lives.¹³⁵ In 1393, John I, dealing with the specific case of Tortosa, echoed the relations between converts and their old co-religionists who, having been relatives or companions, remained Jews, and were said to share the table or bed like they did before religion separated them:

the converts to the Catholic faith who used to be Jews both men and women have participation, cohabitation or perseveration with those who remain Jews, because they eat, lie or participate together, as they used to do before they turned to the Catholic faith.¹³⁶

To avoid this situation, the king ordered that the training of the converts should be improved, under the responsibility of the municipal council and the bishop. This had to include receiving special sermons, being subject to the penitences the bishop imposed in case of breaches and being required to be identified through their clothing. However, the most radical imposition was a strict separation. Any simple or suspicious proximity between Christian converts and Jews would be subject to capital punishment. They could not share a single word or live in nearby houses, thus avoiding any relation for economic activities, family relations or any other motive:

We have ordered and we order with the present that here being any convert, be they man or woman neither dwell nor dare dwell nor converse in a room or house or next door (a house beside another only separated by a wall) that have nor either in any other place separately with Jew or Jewess, nor eat nor drink with them nor eating their food, nor praying with them, nor the Jews or Jewesses with said converts, or with any of them under punishment of hanging without any mercy, not expecting consent or pardon in case of non fulfilment.¹³⁷

The type of punishment was graded. Any conversation or proximity led to the gallows. But if there were sexual relations, the fate would be the pyre according to the same order by John I¹³⁸: “we want and order that if any of said Jews is found with a Christian woman in a suspicious place, of having carnal copulation with her, that both be burnt without mercy”.¹³⁹ This measure was aimed at breaking previous relations that had been separated by conversion. In general, married couples converted together, because a wife followed the conversion of her husband. When this did not happen, sometimes a woman converted abandoning a husband who kept the Jewish faith, but the opposite was more frequent: husbands converted while their wives, who had less to gain socially by changing, remained in the Jewish environment they had always lived in.¹⁴⁰

In reality, the measures imposed by the king after the events of 1391, formally to protect the faith of the converts, really reinforced the measures already included in the municipal ordinances. In the fourteenth century, all the ordinances of cities like Barcelona in 1319¹⁴¹ and Girona in 1358,¹⁴² already ordered converts not to enter the Jewish neighbourhood. So, the municipal ordinances continued to refer to this, as in Barcelona in 1397, in similar terms to those manifested by John I four years earlier,¹⁴³ or as in 1399, focussing on preventing converts from speaking to Jews, as sometimes happened

for questions of work, and adapting the punishments to be applied in all cases.¹⁴⁴

This framework derived from and, at the same time, fed a tense climate against the Jews. In 1362, the marquis of Tortosa justified the safe-conduct conceded to Jews to protect them from the people who wanted to harm and offend Jewish persons and goods: “per aliquos dicte civitatem et alios qui vos proseguntur tam in personis quod bonis iniuriari ofendi ac indebiter molestari”.¹⁴⁵ In May 1391, the queen noted that the population of Barcelona felt a strong animosity (*gran oy*) towards the Jews. So she tried to prevent the sentence for possession of a book by Maimonides that was considered to contain errors against the Christian faith—“alscuns errors contra la fe christiana”—being pronounced in Barcelona, because the expected conviction would increase the hatred against the Jews, which would become socially dangerous in the capital of the country.¹⁴⁶ Indeed, in 1378 the general bailiff of Catalonia noted that trials against Jews suffered from the pressures of a very adverse environment.¹⁴⁷

At the same time, King Peter the Ceremonious corrected his heir with regard to the notable haste with capital sentences applied to Jews who were later shown to be innocent, as has happened in 1377 in Aragon. In this case, the General Governor Prince John, always attentive to applying harsh punishment against the enemies of God’s will, sent two Jews to the pyre for the theft of consecrated Hosts in Tardienta, justified by the confession of the culprits after torture.¹⁴⁸ King Peter recalled another similar case, when in 1367 as we have seen in this chapter, the torture ordered by Prince John obtained confessions that enabled the quartering of the Christian and the burning of the three Jews which in reality was a hurried action that the same king tried to correct attending to *supplicationem aljame judeorum ipsius civitatis*.¹⁴⁹ Nevertheless, the social and religious pressure insisted on the evil vision of the Jews. Faced with another accusation of this type in 1383, the same king warned his nephew, the count of Urgell, who had arrested a Jew from the royal city of Lleida in his domains accused of having bought some consecrated Hosts from a pyx stolen in the county. The king claimed to have information stating that the accused would be object of infamies from their enemies: “Vilely and though false arguments and forms by someone who wishes to damage him”.¹⁵⁰ Regarding this, a fatal mistake would be a bad example for their Jews, which included a potential social danger (“Whether this is the case, it would be grievous and a bad example and reason for big danger and scandal for all the Jews under my domain”¹⁵¹). For this reason, the king demanded prudence from the count and attempts to hold an objective trial, based on a proven truth:

About this case, before applying any execution, you must investigate discretely and with full diligence to find and reach the truth and that according to that, give a mature and wise sentence following what it is due, the reason why if the said Jew is not guilty, he cannot be condemned by false accusations nor punished, and in any case he cannot receive any kind of damage or danger; but in case he is guilty, he must be corrected seriously.¹⁵²

However, animosity against the Jews could even alter the application of the capital sentence. The popular clamour against the criminal who went to his execution could lead to abuses and actual lynchings, as happened in Tortosa in 1386, when a Jew condemned to death was killed in the uproar. The response by the king was aimed at preserving his pre-eminent position by warning his officials in the city not to carry out capital sentences without prior consultation.¹⁵³

Finally, related stimuli were gathered around the application of the death penalty: the strengthening of political power, the rooting of the religious arguments for social cohesion and the involvement of the population through stirring up emotions that, incorporating cruelty and fear, became the meeting point between power and people. As on other occasions, emotions had no limit and led to popular reactions apparently out of control, and which justified the role of the rulers, who had the mission of imposing the due legal, juridical and judicial conduct. It is a perfect combination to explain a social order that, in the end, aimed to be an expression of God's designs, in short, the supreme endorsement.

Notes

- 1 Flocel Sabaté, "Història Medieval", *Història de Catalunya*, Albert Balcells, ed., L'Esfera dels Llibres, Barcelona, 2004, pp. 257–258.
- 2 Christian Guilleré, "Juifs et chrétiens à Gérone au XIVème siècle", *Jornades d'Història dels jueus a Catalunya*, Ajuntament de Girona, Girona, 1990, pp. 64–65.
- 3 Maurice Kriegel, "Alonso de Oropesa devant la question des conversos: une stratégie d'intégration hiéromythe?" "Qu'un sang impur ..." *Les conversos et le pouvoir en Espagne à la fin du moyen âge. Actes du 2ème colloque d'Aix-en-Provence (novembre 1994)*, Publications de l'Université de Provence, Aix-en-Provence, 1997, p. 16.
- 4 "Vets juheu quin joch fayeren los teus parents de Jesu Christ?"; "crucificaren e auciren lo". ACA C. reg. 1708, f. 123v; Yitzhak Baer, ed., *Die juden in christlichen Spanien. I Aragonien und Navarra*, Akademie Verlag, Berlin, 1929, p. 407 (The author gives the wrong interpretation about the place where this happened).
- 5 Elsa Marmursztejn, "Du récit exemplaire au 'casus' universitaire: une variation théologique sur le thème de la profanation des hosties par les juifs (1290)", *Médiévales*, 44 (2001), pp. 37–64.
- 6 José María Monsalvo, "Los mitos cristianos sobre 'crueldades judías' y su

huella en el antisemitismo medieval europeo”, *Exclusión, racismo y xenofobia en Europa y América*, Ernesto García, dir., Servicio Editorial de la Universidad del País Vasco, Bilbao, 2002, pp. 74–78.

- 7 Flocel Sabaté, “Les juifs au moyen-âge. Les sources catalanes concernant l’ordre et le désordre”, *Chrétiens et juifs au moyen âge. Sources pour la recherche d’une relation permanente*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2006, pp. 130–131.
- 8 Juan Carrasco, “Las juderías hispánicas y la génesis del estado moderno: economía y sociedad (siglos XIII–XV)”, *El estado en la Baja Edad Media: Nuevas perspectivas metodológicas. Sesiones de trabajo. V Seminario de Historia Medieval*, Universidad de Zaragoza, Saragossa, 1999, pp. 123–124.
- 9 David Nirenberg, *Communities of Violence. Persecution of Minorities in the Middle Ages*, Princeton University Press, Princeton, 1996, pp. 203–223.
- 10 “Vet lo juí de Déu com puní aquest pecat en lo crestià, jatsia que hagués mort infel. Per què, pots veure com Déus avorreix aquest pecat, e la malícia sua crida a Déu totstamps contra aquell qui el fa”. Francesc Eiximenis, *Terç del Crestià*, chap. CCXVIII; Francesc Eiximenis, *Contes i faules*, ed. Marçal Olivar, Editorial Barcino, Barcelona, 1925, p. 45.
- 11 Flocel Sabaté, “Discurs i estratègies del poder reial a Catalunya al segle XIV”, *Anuario de Estudios Medievales*, 25 (1995), pp. 623–627.
- 12 ACA C, reg. 1085, f. 90r.
- 13 Lluís Marcó, *Els jueus i nosaltres*, Pòrtic, Barcelona, 1977, p. 206.
- 14 ACA, C, reg. 1827, f. 161v; reg. 2044, f. 38r.
- 15 ACA C, reg. 1112, f. 201v–202r.
- 16 Jaume Riera, “Penjar pels peus”, *Cristianos y judíos en contacto en la Edad Media: polémica, conversión, dinero y convivencia*, Flocel Sabaté, Claude Denjean, eds., Editorial Milenio, Lleida, 2009, pp. 609–610.
- 17 “Com los batles que són stats fins al dia de huy hajen acostumat e facen grans greuges moltes vegades a alguns presos de juheus, ço és que ls meten en la cija per no res e la cija és humida e rellent d’aygua e és for perillosa e presó no sia donada per torment mas per custòdia, plàcia al dit senyor que algun batle que ara és o per temps serà, no puixa ne gos metre en la dita cija algun juheu o juhia, sinó vehia clarament per procés que aquell aytal juheu o juhia fossen dignes de mort. Plau al senyor rey”. ACA C, reg. 1964, f. 119r–v; ed.: Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, p. 783.
- 18 ACA C. reg. 260, f. 122v, 154r.
- 19 “Com que lo dit senyor rey hagués atorgat e feyt privilegi a la dita aljama que tot juheu que fos atrobat malcin segons la ley dels juheus aquell poguessen penjar per manera que morís, donant cinquanta lliures al senyor rey, manant al dit batle que, deposant les dites cinquanta lliures en son poder, tota vegada que n fos request per los dits secretaris, ell fos tengut de fer la execució, e de penjar lo dit juheu, e com ara veien los dits juheus alsgruns malsins en la dita aljama e en aquells no gosen provehir ni enantar contra ells per no poder pagar bonament les dites cinquanta lliures, attenent que no ha gran poder en la dita aljama ans hi ha gran flaquea, e attenent açò los grans mals crecen en la dita aljama, de que s poria seguir a aquella gran destrucció e sinistres irreparables: placia a la molt gran altea del dit senyor, que si per ventura se convenia dins tres anys continuament següents fer execució de alsgruns malsins, que dins lo dit temps la dita aljama no sia tenguda pagar res per la dita rahó, ans lo dit batle de Leyda sia tengut de fer la dita execució sens paga alguna e açò sots pena de mil florins. Plau al senyor rey”. ACA C, reg. 1964, f. 119v; Baer: *Die juden im christlichen Spanien. I. Aragonien und Navarra*, p. 783.

- 20 Antoni Cardoner, *Història de la Medicina a la Corona d'Aragó (1462–1479)*, Editorial Scientia, Barcelona, 1973, p. 154.
- 21 Francisco de Bofarull, “Los judíos malsines”, *Boletín de la Real Academia de Buenas Letras de Barcelona*, 5 (1911–1912), pp. 213–216.
- 22 “con un hom és penjat per los peus triga a morir II o III dies”. Antonio Pons, “Los judíos del reino de Mallorca durante los siglos XIII y XIV”, *Hispania*, 20 (1960), pp. 449–453.
- 23 Riera, “Penjar pels peus”, pp. 612–613.
- 24 ACA, C, reg. 1553, f. 32r-v.
- 25 Jaume Riera, “Penjar pels peus”, pp. 605–606.
- 26 Luis Suárez Fernández, “Claves históricas del problema judío en España medie-val, *El legado material hispanojudío. VII Curso de Cultura hispanojudía y sefardí de la Universidad de Castilla-La Mancha*, Ana María López Álvarez, Ricardo Izquierdo Benito, eds., Universidad de Castilla-La Mancha, Cuenca, 1998, p. 33.
- 27 The *Sachsenspiegel* of the thirteenth century shows a sequence of a Jew who was condemned to death for having stolen a Bible and a chalise. He is depicted hanging by the neck and wearing a hat to identifies him as a Jew. Robert Bartlett, *Panorama medieval*, Blume, Barcelona, 2002, p. 252.
- 28 “baxammos por el camyno de la horca a dar al cerro de los Aseteados (...) que es frontero de la Horca donde se fizo un moxon e dende dicho cerro bolbimos sobre mano yzquierda hazia Toledo deslindando los dichos hexidos con tierra de Villarreal y con el osario de los judíos hasta dar en un valladar”. Arturo Ruiz Taboada, “El límite sur de la necrópolis medieval judía del Cerro de la Horca (Toledo) y el problema del contacto con otros cementerios”, *Sefarad*, 76/1 (2016), p. 131.
- 29 Antonio Pons, *Los judíos del Reino de Mallorca durante los siglos XIII y XIV*, Miquel Font ed., Palma de Mallorca, 1984, vol. 2, p. 112.
- 30 ACA C, reg. 1781, f. 167v.
- 31 Jaume, Riera, “Penjar pels peus”, pp. 617–619.
- 32 Juan Carrasco, Fermín Miranda, Eloísa Ramírez, *Los judíos del Reino de Navarra. Documentos 1093–1333*. Departamento de Educación y Cultura del Gobierno de Navarra, Pamplona, 1994, vol. 1, p. 287.
- 33 Pons, “Los judíos del reino de Mallorca durante los siglos XIII y XIV”, pp. 449–453.
- 34 Pons, “Los judíos del reino de Mallorca durante los siglos XIII y XIV”, pp. 500–501.
- 35 ACA C, reg. 947, f. 83r-v.
- 36 ACA C, reg. 942, f. 32v.
- 37 ACA C, reg. 942, f. 68r-71r, 78r-80r.
- 38 Riera, “Penjar pels peus”, p. 619.
- 39 ACA C, reg. 1085, f. 90r.
- 40 ACA C, reg. 1708, f. 101r-103v; Baer, *Die juden im christlichen Spanien. I. Aragonien und Navarra*, pp. 400–404.
- 41 Riera, “Penjar pels peus”, pp. 614–615.
- 42 Angus Mackay, Geraldine McKendrick, “La Semiología y los Ritos de Violencia: Sociedad y Poder en la Corona de Castilla”, *En la España Medieval*, 11 (1988), pp. 158–159.
- 43 ACA Reial Audiència, Conclusiones civils, 4, f. 37v-40r.
- 44 ACA C, reg. 384, f. 273r.
- 45 ACA C, reg. 1112, f. 201v-202r.
- 46 ACA C, reg. 942, f. 31r-32v.
- 47 ACA, reg. 91, f. 112v; Jean Régné, *History of the Jews in Aragon. Regesta and*

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- 48 Danièle Iancu-Agou, *Provincia Judaica. Dictionnaire de géographie historique des juifs en Provence médiévale*, Peeters, Paris—Louvain, 2010, pp. 34, 58, 60.
- 49 ACA C, reg. 122, f. 205r.
- 50 David Romano, “Metges jueus a Catalunya”, *L’Avenç*, 81 (1985), pp. 66–67.
- 51 Lluís García Ballester, *La medicina a la València medieval. Medicina i societat en un país medieval mediterrani*, Edicions Alfons el Magnànim, Valencia, 1988, pp. 48–50.
- 52 ACA C, reg. 873, f. 125r.
- 53 ACA C, reg. 878, f. 176r.
- 54 Flocel Sabaté, “La governació al Principat de Catalunya i als comtats de Rosselló i Cerdanya”, *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), p. 23.
- 55 ACA C, reg. 86, f. 59v; Jean Régné, *History of the Jews in Aragon. Regesta and Documents*, p. 453.
- 56 ACA C, reg. 878, f. 176r.
- 57 Riera, “Penjar pels peus”, pp. 619–620.
- 58 “an Arnau Pinyol per messions que avia feytes de soterrar lo moro que mataren lo jorn que alguns del popular s’arravataren”. ACBEB, clavaría 20, p. 197.
- 59 “qui fo pengat e canyerat perquè trahia los sclaus de la terra”. ACA, MR 1496/1, unnumbered.
- 60 “acanegaren un moro”. Josep Sanchis i Sivera, *Dietari del Capellà d’Anfós el Magnànim*, Acció Bibliografica Valenciana, Valencia, 1932, p. 430.
- 61 “correch la vila ab assots”; “l’acanaylà ab foch”. Jaume Sastre, “El Llibre del veguer de la Ciutat de Mallorca (1326)”, *Bolletí de la Societat Arqueològica Lul·liana*, 70 (2014), p. 95.
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- 63 Flocel Sabaté, “El poblament musulmà de la vall de l’Ebre, segles XIII a XV”, *Atles d’Història de Catalunya*, Víctor Hurtado, Jesús Mestre, eds., Edicions 62, Barcelona, 1995, p. 129.
- 64 ACA MR 1475–1, f. 88r.
- 65 Maria Teresa Ferrer, “La defensa marítima catalana contra el cors bararesc. La reacció després del saqueig de Brenys (1406)”, *La Corona Catalanoaragonesa i el seu entorn mediterrani a la baixa edat mitjana*, Maria Teresa Ferrer, Josefina Mutgé, Manuel Sánchez, eds., CSIC, Barcelona, 2005, pp. 101–134.
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- 69 ACBEB, Paeria e Vegueria II, 37.
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jueus d'Osca", p. 66.

- 150 "iniqament e ab falses tractaments e maneres per persones qui·ls volen mal". ACA C, 1281, fol 122r; Miret i Sans, "El procés de les hòsties contra·ls jueus d'Osca", p. 80.
- 151 "la qual cosa si així era seria greu e de mal exemple e ocassió de gran perill e escandel a tots jueus de nostra senyoria". ACA C, 1281, fol 122r; Miret i Sans, "El procés de les hòsties contra·ls jueus d'Osca", p. 80.
- 152 "d'aquest fet abans que proceescats a neguna execució entenants discretament e ab tota diligència en cercar e haver la veritat e que segons aquella vos hi haiats madurament e sàvia e segons que.s pertany en tal manera que·l dit jueu si culpa no ha ni sia per falses acusacions condemnat ne punit ne se.n puxa als altres seguir perill ne dampnatge; e si la ha, que·n sia corregit greument". ACA C, 1281, fol 122r; Miret i Sans, "El procés de les hòsties contra·ls jueus d'Osca", p. 80.
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15 The death penalty in the mind

As we have seen, all executions were not only public but participation was also encouraged, sometimes with sergeants inciting the population,¹ and with the most serious cases culminating with apparently disorganised popular participation that took over the completion of the punishment, as happened in 1492 with the body of the person who attempted to assassinate the king.² The eagerness of the authorities to involve the people combined the wish to transmit the fear with which to educate the population, who witnessed the fate of those who broke this order, and at the same time joint and accessory participation between authorities and people in a kind of ceremony of reconstruction of the shattered order and, with that, of reconciliation with God, who, according to the accepted account, dictated the order of society.

This allows us to ask whether this popular behaviour was induced by the authorities or if it was sincere. Numerous indicators confirm the popular fervour and passionate enjoyment of the population of the whole sequence of dragging the culprit through the streets, live amputations, hanging and, if necessary, the distribution of fragments of the body. A simple example demonstrates the popular passion. In 1418, without a sentence of capital punishment, the Barcelona city executioner was displayed before the door of the episcopal palace, accused of heresy and blasphemy. This attracted such a crowd that there was a spectacular human avalanche that even caused a death, Jaume Prima, executioner of Barcelona, was put on the step before the palace of the reverend bishop of Barcelona for heresy and blaspheming against God. And so many people came to see him that an old man was killed and many men and women crushed, among whom was the son of Jaume Isern, notary, and many women who lost their scarves and cork-soled sandals.³

Figure 15.1 The staircase could be used to display the accused, as, with great expectation, in February 1418 before the doorway of the bishop's palace in Barcelona (BC, ms. 978, fol. 5v).

This popular interest, fed by the large number of convicts long

remembered in the public exhibitions, did not mean a leisurely acceptance or indifference to the aspects inherent to the application of capital punishment. The executions, hanging bodies and sometimes the fragments of those considered great delinquents on display, surrounded a society that was very passionate about these executions. Indeed, it became a subject of conversation, but going into detail about the executions became a disagreeable theme, one that provoked disgust or even vomit if it came up during meals. The influential Francesc Eiximenis explicitly recommended not mentioning hangings round the table, making it clear that describing their state was an easy subject, but of poor taste, and could even make the diners sick, the same effect as from talking about bad disease or filth:

Never at table should you wish to clean your teeth or your nails, nor show anything that could make the other move in horror nor to vomit. Nor, for this same reason, should you talk about ugly things, either manure or enemas or ugly diseases, nor about men hung or executed, nor about anything that could in the other provoke a disgust or a vomit.⁴

The attraction of the theme and the ease with which supposedly one could end up suffering this punishment facilitated this type of narration. The famous preacher Vincent Ferrer, to explain that the Jews were unable to recognise Jesus like a Messiah, narrated the story of a count that after a long absence was recognised by his dogs and some servants but not by his wife, who mistrusting his approach to her, ordered his execution: “She ordered to put him in the gallows”.⁵

Similarly, in the mid-fifteenth century, the Valencian poet Jaume Roig dedicated a few pages to a journey from Valencia to Paris. In its brevity—335 verses—it includes descriptions of six executions, explained in great detail to make it attractive to the reader. The first arose because the way between Tarragona and Barcelona led him past the castle of Sant Martí. He recalls that this was where Queen Sibila fled on the death of King Peter the Ceremonious in 1386. As we have seen, historically, this event was followed by the death penalties for important civil servants from the queen’s court, especially Berenguer d’Abella and Bartomeu Lunes, sentenced by the new King John I, who had been on bad terms with the circles around his stepmother before taking the throne.⁶ However, Roig echoes a popular version according to which the queen fled after robbing and poisoning the king with spells: “Lady Fortiana, who was a Catalan woman, after stealing from the palace left her own husband, the Lord king, sick, ill and almost dead without remedy in bed, before poisoning and bewitching him, according to what is said”⁷; imagining that it was the queen herself who was rolled and tortured and some of her servants burnt: “For these sins, she was rolled and tortured and some of her servants were

burnt”.⁸ Soon after he reached Paris, his landlady immediately murdered her father, stole everything and ran away with a friar. However, she was caught and condemned to be thrown into the river naked inside a sealed barrel with a snake, a cock and a monkey, again recovering a popular tale:

She killed her father, and with a friar stole everything and fled (...) She was caught and condemned to be put naked inside a sealed barrel with a snake, an old cock and a monkey, being thrown into the river.⁹ Shortly after, also in Paris, a woman killed her husband by making him drink poisoned hippocras, a crime that would have gone unpunished were it not for a bastard son of the deceased who made the investigation continue. The poet Roig says that she was sentenced by the Parliament of Paris¹⁰ to be buried alive under her husband's body: “She was condemned by the Parliament to be buried alive under the dead man”. However, she was taken out alive, put on display in a cart, to an outlying district where she was burnt as a poisoner:

She was carried out alive on a cart out of the city, to the suburb; she was tied to a pole not so short, similar to an axle for a wheel, she being tied and prepared for the bonfire, where, as a poisoner, she was rolled and scorched until only ashes remains.¹¹

The fourth crime also took place in the French capital: he was invited to supper to celebrate New Year in the most famous pastry shop in Paris, in the sense of the pastry shop in the Middle Ages as a place where meat pies were made.¹² Enjoying the supper, and believing that they were eating fine beef, he found a nail and half a man's finger, leaving them in no doubt that they were eating human flesh. That is how the secret that the pastry shop was working with well-marinated human flesh (“the guts became the most delicious sausages in the world”¹³), but mixed with some beef and fine sauces. According to Roig's narrative, the three women responsible for the events were quartered, their house demolished, the ground scattered with salt and the hundred pieces of bodies they had in the pantry were buried in a holy place: “In the morning all three were quartered, and their house demolished and the ground flattened, sowed with salt and all the bodies cut into fragments (more than hundred) were buried in a holy place”.¹⁴ He would know yet another case in Paris, that of a women who, at night, and all alone, approached the executed who were permanently hung on the display gallows and took their teeth for her spells, for which, according to the poet, she was skinned alive and hung: “One was hung and skinned alive for being a great sorcerer and poisoner”, which is why it was concluded that “the skin gave to do jars”.¹⁵ Curiously, this series of abominable deadly crimes and their deserved capital punishment highlighted the pernicious condition of woman. So, at the end of his trip to Paris, he mentioned the excellence

of the men and the perversity of the women, who received their merited punishment on the gallows: “So rich, peaceful, soft and benign men, malign women, many times I saw condemned her, a thousand expelled, there were more of those hung than groups for diverse crimes”.¹⁶ Indeed, capital punishment served to fill the “general denunciation”, in Robert Archer’s expression, that Jaume Roig proclaimed against women, the target of an “ruthless invective”, of which only two women in all the world were spared (the Virgin Mary and the poet’s own wife),¹⁷ in line with the opinion that was spreading in that time.¹⁸ Then, when he was in the city of Lleida on his way home from Paris to Valencia through Catalonia, he coincided by chance with another execution—the sixth in the narrative—this time of a woman, a baker who was dragged and quartered: “Just going into Lleida, I saw a baker woman dragged and after quartered”.¹⁹

The executions in themselves attract: they are all that Roig highlights from his journey from Valencia, both going to and coming from Paris. The same author also sought to please the reader further on by explaining a case he claimed happened in Saragossa. This was of a woman sentenced to hung who got pregnant to avoid her fate, according the respect for pregnant women usual in legal codes until nowadays.²⁰ She made the most of a skill that enabled her to give birth and get pregnant on the same day. She managed to do so four times consecutively: “to avoid being executed, after giving birth, she strained to become pregnant immediately four consecutive times. In a same day she was able to give birth and become pregnant. Thus she managed to extend her life”.²¹ Finally, on the fifth occasion, she was hung, as four midwives certified that she was not pregnant, but when she was dead, it was shown that she was in fact expecting and that the experts had erred. The frivolous and disrespectful tone towards women emphasises the key theme: the writer’s obsession with showing the perversity of women. From this argument, the second part of the author’s reasoning leads him to want to demonstrate that this perversity, in any case, is subject to justice. So, the executions he narrates continued to be references to justice.

One can take this reflection in which the executions refer to a supposed invocation and faith in justice as the interpretation of other very different contemporary images, like the similes with animals that provoked hilarity and, at the same time and in the background, could criticise the social order. A cymatium in the south wing of the cloister of Tarragona Cathedral reproduces the happy funeral party with eight rats carrying the pall of a dead cat. However, the cat is pretending, simulating, and letting them think it is dead to make use of its own burial to put an end to its enemies the rats, which it will attack by

surprise, as depicted on the neighbouring cymatium.²² In contrast, a contemporary illumination in the Rutland Psalter, written in England around 1250–60, depicts four rats that have hung a cat from the gallows.²³ It is not so much a murder, which could have been done any other way, but more an execution, as if the justice finally favoured the little persecuted people.

What this reiterated literary resort to executions really reflects is that the death penalty and the image of the gallows formed part of all aspects of everyday life. Raimbaut de Vaqueiras, a troubadour, who lived between the twelfth and thirteenth centuries, wrote a curious debate between him and a Genoese woman, each speaking their respective languages. In the first paragraph he uses a courteous and elegant Provençal to court her. However, in the next paragraph, she answers in Genoese in a bitter and crude tone and, apart from telling him that she would never love him because she already has a more handsome husband than the pretentious poet, she makes two natural references to the application of death, one to wish him hung and the another to tell him she wants to cut his throat:

Jongleur, you are not courteous for asking me that, so I won't do anything. Let's hope you are hung! I will not be your friend. Certainly I will cut your throat, damned Provençal. I will tell you these insults: dirty, stupid, hairless. I will never love you because I have a much more handsome husband than you, as I well know.²⁴

These references to the executed and the wish to see death not only appear in the most popular literature. We can also see them in more serious literary works, with political connotations. In the last third of the twelfth century, the reign of Alfonso the Chaste was surprised by the appearance of an impostor who claimed to be Alfonso the Warrior, his ancestor admired for having expanded Aragon at the expense of the Muslims,²⁵ against whom he was killed in 1134 after he failed in an attempt to conquer Fraga, then the westernmost town in the Muslim kingdom of Lleida.²⁶ Alfonso the Chaste mentioned him in a letter to Louis VII of France: “ille senex homo qui fingens se tanquam fradulentissimus regem Ildefonsum meum avunculum”.²⁷ The impostor ended up on the gibbet—“he was incarcerated and ordered to be hung”,²⁸ a situation the troubadour Bertran de Born did not let pass.²⁹ In his aversion to the king—“The hatred of Alfonso II had become an obsession for our troubadour”,³⁰ he disparaged him for being ugly and avaricious and for having hung his predecessor³¹: “A tall thin man he praised himself singing and prefer money to honour, and hung his ancestor, for which he is destroyed and condemned”.³²

A century later, after King Peter the Great had seized the crown of Sicily in 1283 against papal opinion,³³ he was excommunicated by Pope Martin IV. This then led to the invasion of Catalonia by Philip III

the Bold of France in 1285.³⁴ In these serious circumstances, a *sirventès* was written and spread that took poetic propaganda onto the battlefield. In this context, an anonymous poet announced that we would see the followers of the king of Aragon hung and he himself would be hung on the gallows like a thief:

We shall see those of Aragon hung, and they will longer be able to elude justice, and we shall see their king tied up and hung like a thief, and he will not be the first to be placed on the gallows.³⁵

Another century later, in 1392, John I, showing signs of erudition, explained that he tried to be a good ruler taking decisions bearing in mind what history would say, as was correct for a ruling dynasty in the fourteenth century,³⁶ in other words, following the reading of “many chronicles of emperors and of kings and ancient deeds”.³⁷ Thanks to these works, he obtained the models to follow and those to avoid. An example of the latter was Nero, who, precisely for his carelessness in government, was hung after his death from the gallows in the city of Rome:

It is read of Nero, according to what Paulus Orosius says, that given that he took no attention to defend the empire nor to make it grow, but rather he gave himself up to voluptuosities, he died by his own hand, and the body was carried hanging from gallows around the city of Rome.³⁸

The ease with which the death penalty was referred to, although under more or less entertaining literary formulae, was a way to transmit determined ideas about the social structure. Francesc Eiximenis explained that in France, the queen’s maids, annoyed with the abbot of Cluny who criticised their frivolity in makeup and clothes, took their revenge on him one day he was dining with the queen. They forced the cook to add a laxative to the abbot’s food and so during the meal he soiled himself with excrements and made such a smell that the queen and everyone else had to leave the chamber. However, on discovering the cause of this, the king had the cook hung and the maids drowned: “he ordered that the cook was immediately hung and that every one of the maids, who colluded in this action, were immediately drowned”.³⁹ This sentence was not applied because the abbot understood that such severe physical punishment would harm him (“In the case this be applied, he would understand himself like an irregular, the reason why he would lose the mass and the abbey”).⁴⁰ It is a moralising tale that, among other things, shows that the king could decide by himself on capital punishment and its fast application.

The literature also shows the ease with which the punishment by fire was assumed, to burn the body of he whose soul could not be burnt, as a Byzantine novel in the thirteenth century stated: “Light a

great pyre, a big fire, and burn her body, as we cannot burn all her soul! As the devil within her will soon escape from the flames”.⁴¹

In reality, the omnipresence of the gallows in late-medieval life, whether used in executions or simply indicating the numerous changes in jurisdictional limits or occasionally displaying rotting bodies, meant that the gallows also entered into the common language. The scaffold became a figure with which to express moods and sentiments. One could, for example, send what one did not like to the gallows. In June 1396, a Catalan pilgrim returning from Rome became very indignant on seeing that the grain harvested near Pisa went to the Church under the excuse of the religion. As an indicator of indignant rejection, he wrote that he wanted this kind of Christianity to go to the gallows:

On the 7th of June I left Rome to return on what was the day after the Pentecost and the day of Corpus Christi I went to Pisa to the procession, and I saw that people reaped, threshed and put the wheat to the threshing floor in honour of the Holy Faith. For this reason I tell you that their Christianity and their lives go to the gallows. The virtues are holy and the land good and the people bad.⁴²

In an even closer way, one could wish the gallows for someone who has behaved disloyally and could harm us. Pere Tequi, a merchant from Tuscany who was working in Perpignan, went into business with Leonardo di Filippo Castelli, but this led to heavy financial losses, which the merchant attributed to his partner's disloyalty. Tequi expressed his wish to see his partner hung: “Hang him!”⁴³ This was not a threat of judicial intervention, but more an exclamation of indignation and rejection of his erstwhile partner.

With a similar sense of closeness, the gallows could be mentioned to refer to impossible situations, those that could not be complied with even in the case of being threatened with being hung. In 1379, with the excuse of applying a general remission for a murder in a climate of heavy fiscal pressure,⁴⁴ negotiations were begun between the royal treasury and the people of the town of Anglesola. The demands of the treasury official seemed so unattainable for the representatives of the town that they assured they could not meet them even if he wanted to hang them: “He ask insistently that they give five hundred florins, and they answered that if he know where he could hang them, they neither can pay this amount”.⁴⁵

The obvious reluctance with which someone went to the gallows became an easy simile. In the context of the civil war, in May 1464 to show that the Barcelonans were obliged to participate in the popular militia grudgingly, it was explained that they looked like they were on their way to the gallows:

Saturday the 26th. That day the lord our king returned secretly to

Barcelona, leaving all his men at arms, some in Piera, some in Cervera and some in the town of Llacuna, and came to bring out the people of the popular militia through the usage 'Princeps namque', who left the city very forced, that it seemed they were going to the gallows.⁴⁶

Leisurely entertainment naturally incorporated such an everyday aspect as the hangings. In the early sixteenth century, *La Vesita* ("The visit") was written. This play was intended to entertain by showing how the ladies of Valencia entertained themselves by visiting each other and playing amorous games with beaux, mixing Catalan, Castilian and even Portuguese, given the presence of Castilian maids and knights and occasionally some from Portugal. At a given moment the entertaining dialogue between the participants goes as follows:

Mistress;

'that the best be hung!'

Miguel:

'if the best must be hung,

I give myself to be hung.'

Fernández:

'I am not so well bred

that I leave you this place'.

Rodrigo:

'Who wishes to compete against me

in questions of good loving?'

Alonso:

'Who here does not consider himself

as the first one of the scale?'⁴⁷

The banality with which these similes and comparisons are repeated belies the fact the mention of the death penalty and the scaffold, even in jest, could express deep-felt fears, so real they could come true. The fifteenth-century notary Jaume Safont from Barcelona kept a diary. In February 1462, he referred to those opposed to the municipal government writing that it seemed that they had been looking for the gallows for days and they had not found them: "I think they have been looking for the gallows for many days and they have not been able to find it".⁴⁸ The images related to popular punishment became normal expressions for joking about political events. The same notary, describing the disputes between the councillors of Barcelona in 1475, commented that some of these would prefer to be beaten through the streets on a mule rather than hearing such harsh accusations: "Many of them would prefer to be beaten on a mule around the all city rather than listen to half of the nastiness that was said before their faces so many good people being present".⁴⁹

Safont showed a familiarity with the practices of the death penalty, but, at the same time, he captured a tense political climate. Finally, as we have seen, the political tension would fall on the ones he mentions

in the shape of the death penalty, although it was not by hanging from the gallows. This use shows the gallows as a symbol, because besides the instrument used that corresponded to the category of the accused, there was a tendency to allude to the gallows in a generic way to refer to the application of capital punishment. In fact, the gibbet was a symbol also used in other expressions, apparently playful but with tense undertones. In 1409, in the midst of the campaign to finish the integration of Sardinia into the Crown of Aragon,⁵⁰ it was mentioned that instead of accepting the domain of the Catalans, the Sards preferred to hang them and eat their livers: “The Sards after preparing many ropes and bonds told that they would hang the Catalans and eat their livers”.⁵¹

The omnipresence of the gallows in the landscape and conversation could not hide that it was the consequence of evil. Justice and the traits inherent in the jurisdiction were visualised through it, but its function was to punish evil and those who had a place on the gallows were the enemies of society. The symbolism of the gallows incorporated this negative view. In France, the collection *Ci nous dit*, written between 1313 and 1330, presents a dispute about the burial of a rich man who died excommunicated. His friends wanted to bury him in the cemetery, but the priest refused, given that he had been excommunicated. The dispute ended with both parties accepting that a mule should carry the body to where he had to be buried. Historians who have analysed this document has expressed surprise and have even interpreted a disparaging note in the use of an ass, but it is worth mentioning that, at the end of the Middle Ages and during the modern centuries, a donkey, often blind, and sometimes specified as being white, did similar services. The popular late-medieval Eucharistic fervour⁵² that generated relics with the blood of Christ,⁵³ includes the explanation of a mule that carried some corporals stained with sacramental wine converted into the blood of Christ some 250 kilometres. It walked from Xiva (Valencia) until it knelt down and died outside the old hospital of Sant Marc in Daroca (Aragon) to demonstrate that the relic with the blood of Christ had to be kept in that temple.⁵⁴ This narrative would be the basis for another that appeared in the modern centuries⁵⁵ that placed a journey of forty kilometres by a blind white mule in the thirteenth century.⁵⁶ It carried the body of Saint Raymond Nonnatus, one of the founders of the Mercedarians,⁵⁷ from Cardona Castle where he had died, to the distant chapel of Saint Nicolas in Portell where Providence wanted him buried.⁵⁸ There are other similar explanations. In 1554, when the vicar general of the bishopric of Vic visited the monastery of Sant Pere de Casserres, he saw that the biggest of the boxes of relics contained the bones of a child. This was the son of the old lord of Cardona, who

at birth talked to say that he would only live a month, after which his body had to be put on a horse, which would then walk to where God wanted a monastery built in honour of Saint Peter.⁵⁹ Far from there, closer to Cuneo in southwest Piamont, the local martyr Saint Dalmazzo would be the origin of a religious community because a cart drawn by two young bulls would stop at that place in the third century AD to indicate the place for his burial.⁶⁰ In the case of the story *Ci nous dit*, divine will would also have become very clear through the transport of the body by the animal. The mule took the excommunicated to some gallows, and he had to be buried at their foot.⁶¹ So the gallows assumed the meaning of social rejection, incorporating the expression of divine will and even assuming equivalence with the religious punishment of excommunication.

In fact, the gallows, as shown by their omnipresence, remained a real danger, because all the weight of power, either justified or forced, could fall on anybody precisely through the application of the gallows. Given that this represented sovereign power, there was only one way to overcome it: the religious invocation that led to the supreme power that only corresponded to God. He could burst into the world and overcome the gallows to help whoever had shown an adequate link to the divinity, through a devotion that was more important than the degree of responsibility and culpability for the crime. At the beginning of the thirteenth century, a collection of miracles, written in Lleida to encourage worship of the Virgin Mary, explained that she could compensate her worshippers, even freeing them from the gallows, no matter that the crime had really been committed. This is what would have happened with a thief who was hung and had spent three days on the gibbet, but whose good appearance was surprising, very different from the awful aspect that was inherent to those who had been hung⁶²: “On the third day after he had been hung, they saw him still hanging but with a beautiful face”.⁶³ Faced with this, it was thought that the rope was not tight enough and they even tried to speed his death with knives: “They tried to kill him using knives”.⁶⁴ However, all was in vain because the explanation was that the Virgin Mary held him up: “When he was hung, Saint Mary was there with him and she held him on the gallows with her precious hands; so he did not suffer any harm”.⁶⁵ This favour by the Virgin Mary was in response to the devotion he manifested for her: “He was a thief who often stole, but was deeply devoted to Saint Mary, who he greeted many times”.⁶⁶ When this was realised, he was taken down and entered into the monastery to do penance to enjoy eternal salvation after death:

They thought that the glorious Saint Mary was helping him, and so in honour to her they took him down, and he was safe and sound,

without any harm, and he entered a monastery, and here he did penance and was to serve Jesus Christ and the Madona Saint Mary while he lived, and after had celestial glory.⁶⁷

This narrative in a book of miracles of the Virgin Mary in Lleida Cathedral is one of the many versions that circulated in diverse languages around Europe, including versions in Portugal, France, the north of Europe, Castile or Galicia, with some singular variants (in Breton the same effect of a smiling face is narrated but while being executed on a pyre),⁶⁸ some widely spread. One of the very famous explanations was the numerous variants that placed the story in the setting of the pilgrimage to Santiago de Compostela, in this case it being Saint James who sustained the good pilgrim unjustly hang.⁶⁹ In Catalonia, an altarpiece painted shortly before the mid-fourteenth century⁷⁰ in Frontanyà devoted to Saint James explicitly showed the saint sustaining the body of a hang man (see [Figure 15.2](#)).⁷¹ There were other famous similar literary images, like the version that was included in the *Cantigas de Santa Maria* of King Alfonso X of Castile (“How Jesus Christ, being in the Cross saved a thief”).⁷² These continued but adapting to the poetry of the fifteenth and later centuries, as occurred, in the last medieval century, with the above-mentioned poet in Catalan Jaume Roig. It was, in definitive, one of the best examples of the spread of miracles as a literary genre in the vernacular, one that placed the Virgin Mary and saints as the Apostle James as intercessors right in the centre of the literary cannon in a scenario of strong and evident cultural and religious common values all over Europe.⁷³

Figure 15.2 Detail of the altarpiece devoted to Saint James showing how the saint sustained a hang man avoiding his death. From the church of Sant Jaume de Frontanyà (Berguedà, Catalonia), currently in the Museu de Solsona Diocesa i Comarcal, MDCS 13.

It could be understood that the hanging body was oscillating “betwixt Heaven and Earth”, thus showing the situation of the souls, between salvation and eternal condemnation.⁷⁴ Thus, God intervened more easily if an injustice was being committed and the person did not merit the punishment he was receiving. This popularly linked to the record of the ordeals as divine intervention in favour of the just.⁷⁵ The same early thirteenth-century collection of miracles from Lleida included the case of a devil who had entered a city disguised as a merchant and accused a woman of having become pregnant through adultery, for which she had to submit to the trial by fire: “If this is not true and I cannot prove it, that I be burnt”.⁷⁶ The format was nothing like the systems of ordeal used in Catalonia in the eleventh and

twelfth centuries as added proof in a trial.⁷⁷ In contrast, this tale played around the ordeal by fire without recalling what it was like and adorning it to make it showy and more spectacular, so the narrative became more attractive for the reader or listener: “The lord had a great fire made and the woman to come there, and they took her there before the fire; she felt great fear because she saw the fire lit, although she denied the facts”.⁷⁸ However, as she had confessed —“Because as the confession cleans, she was free of the sin”,⁷⁹—the fact demonstrated the efficacy of the sacrament of the confession that the IV Lateran Council imposed on all the Christian population precisely in 1215,⁸⁰ and she was so clean that the accusing devil did not even recognise her physically. Thanks to that, she was freed without even having to go through the fire, while the lord ordered the accuser placed on the pyre. However, as he was really a demon, he suddenly melted away and disappeared: “As the devil in the appearance of a merchant said it was not that woman, the lord wanted him taken and put on the pyre, and with that he disappeared and went away”.⁸¹

So, faced with injustice, God intervened to help the good as long as their behaviour had been adequately pious. This approach was highlighted in the centuries after the Middle Ages. In the eighteenth century, with his compendium of the miracles of the Virgin, the Jesuit Juan de Villafañe, aimed to increase the worship in Marian sanctuaries. He related an intervention by the Virgin of Montserrat that would have happened in 1323. A convict reached the gallows due to a confession obtained through torture, in which he confessed to a crime he had not committed precisely to avoid having to endure the physical torment. The intervention of the Virgin Mary consisted of breaking the rope that held up the convict. She did so up to three times, and then the accused was taken before the judge, who listened to the prisoner explaining what had happened and how the Virgin had helped him:

In the year 1323, Tomás Fabro, resident in the City of Toulouse in France, was accused of some serious offences; for greater inquiry into these he was put to the question of torment, in which he confessed what he had not committed, and so he was condemned to die on the gallows. The punishment was carried out; but with singular prodigy, three times the ropes broke when the noose was tightened around his neck, although the second, and third time they put stronger ropes. In view of such strange events, they took Tomás before the Judge, to whom he confessed that, given the extremely difficult challenge, he had entrusted himself to Our Lady of Montserrat, and that she had favoured him, knowing well that he was innocent, and he had not committed the crimes he was accused of, to which he confessed for

fear of the torture. They freed him, and the same archbishop of Toulouse, with three other bishops, witnessed, and signed with their own hand what had happened; with which testimony, and with the ropes, which they had placed round his neck, Tomás Fabro came to Montserrat, accompanied by his wife, and other neighbours, to give thanks to such a powerful lady, for having thrice freed him from the noose, with which he would have lost his life: because although it is true, that ‘Funiculus triplex difficile rumpitur’, to the power, and charity of Mary, with her devotees, there is nothing that is difficult.⁸²

The intercession of the Virgin and the saints could propitiate divine intervention even in the most extreme situations. Although distant from what concerns us here, European medieval cultural homogeneity makes it coherent to recall the Welshman, William Cragh. In 1307, a commission was sent to Wales charged with investigating the miracles attributed to Thomas de Cantilupe,⁸³ as was usual in processes of canonisation.⁸⁴ This bishop of Hereford, who died in 1282, was attributed with having intervened miraculously in the resurrection of William Cragh in 1290.⁸⁵ Cragh was a Welsh warrior who revolted against Edward I of England, and had twice been hung on a gallows outside Swansea in 1290. The first time the gallows snapped and then once he was declared dead, one of his supporters, Lady Mary de Briouze, demanded the intercession of Thomas de Cantilupe. The day after the execution, William Cragh began to give signs of resurrection, and some fifteen days later, he had come completely back to life. The commission ended up accepting the facts, which were part of the thirty-eight miracles that endorsed the canonisation of Thomas de Cantilupe in 1320. The fact, in any case, there was a singular confluence around an execution between the English colonial subjection of the Welsh, very diverse aristocratic lineages and the ecclesiastical bureaucracy putting order to the invocations and religious expressions.⁸⁶

This was when the Church’s monopolisation of the interpretation of Christianity was complete, as stated in the song of the Albigensian crusade in the thirteenth century: “The Holy Church tell you: do not fear or be suspicious, that she has the power to protect you and has the power that favours you, and the power that defends you and the power for you to be forgiven”.⁸⁷ This position worked in favour of the ecclesiastical hierarchy, who were in such a socially recognised position that they could surround themselves with special powers. This explains the acceptance of the custom that allowed someone condemned to death to be freed if he met a cardinal on his way to the gallows. In the fourteenth century, the jurist, Baldo de Ubaldis, picked this up. Fifteenth-century jurists like André Barbazza or Barthélemy studied its application, which consisted of a cardinal covering the

head of the condemned with his biretta. Evidently, meeting a cardinal could only happen in very specific cities, which did not impede this assumption from being analysed according to interests: either having good lawyers who managed to make a cardinal cross the route of the condemned or, if the opposite effect was sought, make the convict take a route that avoided areas frequented by cardinals.⁸⁸

The continuity of these customs and narrations in the modern period confirms that the gallows became a medieval legacy for the later centuries. In fact, the modern centuries maintained a landscape full of gallows until the end of the Ancient Régime,⁸⁹ one in which the exercise of capital punishment and the display of the executed was grafted onto new political approaches.⁹⁰ Around Europe the landscape was a series of gallows. We need only look at the painted landscape. Brueghel showed gallows, people hanging and a decapitation, among others, to explain the triumph of death, but when he painted a more bucolic landscape, with peasants celebrating, the central image was a gibbet, marking the landscape and showing all its symbolism.⁹¹ The famous depiction of Amsterdam by Cornelis Anthonisz in 1538 is so complete that it includes the gallows before the city in one corner of the canvas, with fourteen bodies hanging and two people working on them.⁹²

Indeed, it is understood that the popular devotions and invocations around the executed spread and were adapted. In Barcelona, for example, in those times, fragments of the ropes from hangings were taken to a chapel in the cathedral, seeking a new religious piety that would supply possible remission.⁹³ They were adopted as amulets to protect against death, especially if they had broken when used and thus, the prisoner had been freed.⁹⁴

Leonardo da Vinci narrated having seen a “dead men who had the member erect, for many die thus, especially those hanged” in 1477 in Florence. He later attended the dissection of the body, which enabled him to interpret that the erection was due to blood and not to the wind as the physicians had justified until then by not assessing the flow of the blood.⁹⁵ This case of priapism helps us to understand the existence of popular narrations in this sense and also the values attributed to the semen or urine of men hung, especially when they watered plants like the mandrake.⁹⁶ In 1825, Jacques Collin de Plancy highlighted the effects of these fluids on this plant: “The most prodigious of these roots were the ones that had been sprinkled with the urine of a hanged man”.⁹⁷

Beyond the integration of the figure of the hanging man in popular beliefs, the object of the execution maintained its meaning as an intimidatory reference against breaches of the law. It became the visible sign of a notion of the struggle against crime through

intimidation and fear. “Bad acts lead to a bad payment” they warned, in Germany, with the so-called swords for beheading, destined as their name indicates to applying capital punishment by decapitation, although they were intended more to intimidate than to be functional.⁹⁸ The signs and meaning of the death penalty spread and took root popularly during the modern age precisely because the new society benefitted from the information that had been opened up by the spread of printing, so we can even talk about the diffusion of a veritable gallows literature. Through the use of the images, this aimed to intimidate regarding evil, at the same time mixing crime and sin to reflect on the salvation of the souls of the accused, a question that became candent in a Europe divided between Catholics and various types of Protestants, both of whom sent the accused to the gallows.⁹⁹ In Catalonia, the printing press enabled the spread of popular chapbooks in the modern centuries based precisely on the adventures of bandits in a jurisdictionally fragmented society. These brigands normally ended up on the gallows, so illustrating connections between the legal system and the chapbooks and, notably, popular enthusiasm to know details about the application of the death penalty.¹⁰⁰ In reality, this became a popular spectacle, one that combined attraction for the masses and the moral dirigisme by the powers, which interpreted it as chastening and exemplary.¹⁰¹

Thus, the omnipresence of the death penalty and the executed in the language and everyday expressiveness of the Late Middle Ages reflected a society that had fully incorporated it among its traits with all its scenography and significance.

Notes

- 1 ACBEB, Paeria i Vegueria II, 61, f. 152v-153r.
- 2 Pere Miquel Carbonell, *Cròniques d'Espanya*, Agustí Alcoberro, ed., Editorial Barcino, Barcelona, 1997, p. 263.
- 3 “Fonch posat en la scala devant la porta del palau del reverend bisbe de Barchinona en Jacme Prima, moro-de-vaques de Barchinona, per heretge e blasfemador de Déu. E ajustà-s’i tanta de gent per veure’l que un hom veyll hi mataren e esclafare-hi molts hòmens e dones, entre los quals fonch lo fill d’en Jacme Isern, notari, e moltes dones qui-y perderen los mantells e los tapins”. Jaume Safont, *Dietari o Llibre de Jornades (1411–1484)*, Josep Maria Sans Travé, ed., Fundació Noguera, Barcelona, 1992, p. 9.
- 4 “Null temps en taula te vullas purgar les dents ne les ungles, ne ensenyar res qui puixa l’altre provocar o moure a horror ne a vòmit. Ne, per aquesta mateixa raó, deus parlar de coses lletges, així com de fems ne de crestitis ne de malalties lletges, ne d’hòmens penjats ne sentenciats, ne de res qui puixa l’altre provocar a ostec o a vomit”. Francesc Eiximenis, *Terç del Crestià*, cap. CCCLXXVI, (*Lo Crestià. Selecció*, Albert Hauf, ed., Edicions 62–La Caixa, Barcelona, 1983, p. 150).
- 5 “lo mandó enforçar”. Pedro Cátedra, “Fray Vicente Ferrer y la predicación

- antijudaica en la campanya castellana (1411–1412)”, “*Qu’un sang impur ...*” *Les Conversos et le pouvoir en Espagne à la fin du moyen âge*, Jeanne Battesti Pelegrin, ed., Publications de l’Université de Provence, Aix-en-Provence, 1997, p. 43.
- 6 Esteve Gilabert Bruniquer, *Ceremonial dels Magnífichs Consellers y Regiment de la Ciutat de Barcelona*, Francesc Carreras Candi, Bartomeu Gunyalons, eds., Imprempta d’Henrich y Companyia, Barcelona, 1912, vol. 1, pp. 231–232.
- 7 “na Fortiana, qui catalana/fon natural, ab prou de mal/e malaltia, llexat havia/abandonat, palau robat/sense remei, son senyor rei/propri marit mig mort al llit,/emmetzinat e fetillat/segons se deia”. Jaume Roig, *Espill o llibre de les dones*, Edicions 62—La Caixa, Barcelona, 1978, p. 42.
- 8 “per tals peccats/fou ben rodada i turmentada;/moltes cremades de ses criades”. Roig, *Espill*, p. 42.
- 9 “matà son pare, ella i un frare/tot ho robaren e se n’anaren (...) ella fon presa e nua mesa/dins una bóta e closa tota/ab companyia de serp, bogia/I d’un vell gall; lo riu avall/la capbuçaren e la llançaren”. Roig, *Espill*, pp. 42–43.
- 10 Claude Gauvard, *De grace especial’. Crime, état et société en France à la fin du Moyen Âge*, Publications de la Sorbonne, Paris, 1991, vol. 1, pp. 26–32.
- 11 “pel parlament/fon condempnada ser soterrada/viva dejús, lo mort dessús”; “e viva treta, duta’n carreta/fora’l raval, al cap d’un pal/no gaire baix obrat com aix,/mesa la roda, per l’ull on roda/ella lligada aparellada/davall foguera com metzinera/hi fos rodada e socarrada fins tot fos cendra”. Roig, *Espill*, pp. 42–43.
- 12 Bruno Laurioux, *Écrits et images de la gastronomie médiévale*, Bibliothèque nationale de France, Paris, 2011, pp. 25–42.
- 13 “dels budells feien salsisses o llonganisses,/del món les pus fines”. Roig, *Espill*, p. 46.
- 14 “per lo matí/de totes tres feren quartés,/e llur posada fon derrocada,/e la planaren; sal hi sembraren/e tots cossos tallats a trossos/(cent n’hi contaren), los soterraren/en lloc sagrat”. Roig, *Espill*, pp. 46–47.
- 15 “una’n penjaren, viva scortxaren,/gran fetillera e metzinera”; “la pell llexà/per fer-ne bóts”. Roig, *Espill*, 47.
- 16 “homes prou rics e pacífics,/suauus, benignes; dones malignes/moltes vegades viu condempnades; mil bandejaven, més ne penjaven/que de raïms per varis crims”. Roig, *Espill*, p. 47.
- 17 “denuncia general”; “investiva despiadada”. Robert Archer, *Misoginia y defensa de las mujeres. Antología de textos medievales*, Ediciones Cátedra, 2001, pp. 251–266.
- 18 María Cruz Muriel Tapa, *Antifeminismo y subestimación de la mujer en la literatura medieval castellana*, Editorial Guadiloba, Cáceres, 1991, pp. 303–328.
- 19 “En Lleida entrant,/viu rossegar, puis squarterar,/una fornera”. Roig, *Espill*, p. 48.
- 20 J. Mas, *La pena de muerte*, Editorial Bruguera, Barcelona, 1973, p. 50.
- 21 “Per escapar,/pres per partit, havent parit,/fort treballàs prest s’emprenyàs/quatre vegades continuades./Un mateix dia ella paria/e s’emprenyava. Així guanyava/lo porrogar”. Roig, *Espill*, p. 69.
- 22 “Processó de les rates”, *Catedral basílica de Tarragona metropolitana i primada* <www.catedraldetarragona.com/catedral-cat/planol-30-42>. Consulted: 24th June 2018.
- 23 Kathleen Walker-Meikle, *Medieval Cats*, The British Library, London, 2011, p. 9.
- 24 “Jujar, voi no sei corteso / qe me chaidejai de zo, qe niente no farò /

vostr'amia non serò / certo, ja ve scanerò / provenzal malaurao! / Tal enejo ve dirò: / sozo, mozo, escalva! / Ni ja voi non amerò, / Q'eu chu bello mari ò / Qe voi no sei, ben lo sò". Martín de Riquer, *Los trovadores. Historia literaria y textos*, Planeta, Barcelona, 1975, vol. 2, p. 817.

- 25 José Ángel Lema Pueyo, *Alfonso I el Batallador rey de Aragón y Pamplona (1104-1134)*, Ediciones Trea, Gijón, 2008, pp. 55-388.
- 26 Rodrigo Pita Mercé, "La Fraga musulmana", *Argensola*, 5/20 (1954), pp. 318-319.
- 27 Antonio Ubieto, "La aparición del falso Alfonso I el Batallador", *Argensola*, 9/33 (1958), p. 38.
- 28 "fue preso y mandado ahorcar". Gerónimo Zurita, *Anales de la Corona de Aragón*, book 2, Chapter 22; ed. Antonio Ubieto, María Desamparados Pérez, Laureano Ballesteros, Anubar, Valencia, 1966, vol. 2, p. 73.
- 29 Gérard Gouiran, "Bertran de Born, 'miles', o la dificultat d'ésser un perfecte cavaller", *L'Avenç*, 107 (1987), pp. 28-33.
- 30 "el odio a Alfonso II se había convertido en una obsesión de nuestro trovador". Martín de Riquer, *Los trovadores. Historia literaria y textos*, Barcelone, Editorial Ariel, 1975, vol. 2, p. 683.
- 31 Federico Balaguer, "Alusiones de los trovadores al pseudo Alfonso el Batallador", *Argensola*, 9/33 (1958), pp. 45-47.
- 32 "un seignor flac e gran/tal qe.is lauza en chantan/e vol mais deniers q'onor/e pendet son ancessor/per qe.is destrui et enferna". Guy de Poerck, "Bertran de Born: 'Molt m'es d'iscandre car col'", *Annales du Midi*, 73/53 (1961), p. 25.
- 33 Henri Bresc, Laura Sciascia, "Mort aux Angevins", *Palerm 1070-1492. Mosaique de peuples, nation rebelle: la naissance violence de l'identité sicilienne*, Henri Bresc, Geneviève Bresc-Bautier, ed., Éditions Autrement, Paris, 1993, pp. 136-145.
- 34 Enric Mirambell, *El setge de Girona en temps de Pere el Gran*, Rafael Dalmau, editor, Barcelona, 1963, pp. 7-55.
- 35 "los de Aragon veirem penjar,/ni plus scampar/poiran raison,/e-l sieu seignor veirem ligar/et aforcar/coma lairon;/non i serà lo premier mes". Riquer, *Los trovadores*, vol. 3, p. 1600.
- 36 Flocel Sabaté, "L'invisibilitat del re e la visibilitat della dinastia nella Corona d'Aragona", *Il principe invisibile*, Lucia Bertolini, Arturo Calzona, Glauco Maria Cantarella, Stefano Caroti, eds., Centro Studi Leon Battista Alberti—Brepols, Mantova—Turnhout, 2015, pp. 35-62.
- 37 "moltes cròniques de emperadors e de reys e gestes antigues". Antoni Rubió i Lluch, ed., *Documents per a la història de la cultura catalana medieval*, Institut d'Estudis Catalans, Barcelona, 2000, vol. 1, p. 376.
- 38 "se lig de Neró, segons que diu Paulo Eurosio, que per ço com no cura de deffendre ne crexer l'emperi sinó que's dona a voluptats, morí per ses propries mans e mort fo portat penjat en unes forches per la ciutat de Roma". Rubió i Lluch, *Documents per a la història de la cultura catalana medieval*, vol. 1, p. 376.
- 39 "manà que lo coc de la Reina fos tantost penjat e que totes les donzelles que allò havien tractat fossen tantost ofegades". Francesc Eiximenis, *Dotzè del crestià*, chapter CDXXXI; ed.: *Contes i faules*, Marçal Olivari, ed., Editorial Barcino, Barcelona, 1925, p. 87.
- 40 "si es faia, ell s'entenia per irregular, que hauria a perdre la missa e l'abadia". Eiximenis, *Dotzè del crestià*, chapter CDXXXI; ed.: *Contes i faules*, Olivari, 1925, p. 87.
- 41 "¡Encended un fuerte fuego de hoguera, un gran fuego, y quemad el cuerpo de ésta, ya que no podemos quemar del todo su alma! Pues el demonio que hay en ella pronto se pondrá a salvo de las llamas". *Calímaco y Crisóroo*,

Carlos García Gual, ed., Editora Nacional, Madrid, 1982, p. 157.

- 42 “A vii de juny yo partí de Roma per tornar-me’n que era lo sendemà de sinquagerma e lo jorn de Corpus Christi fui en Pisa a la professó e viu que y segaven e batien e matien blat per les eres en honor de la fe sancta. Perquè us dic que a la forqua vaja lur cristianisme e lur vida. Les virtuts són sanctes e la terra bona e les gentes males”. Ernest Moliné, “Noticiari català dels segles XIV y XV”, *Butlletí de l’Ateneu barcelonès*, 1 (1915), p. 216.
- 43 “que enpicato posa lo esere!”. Damien Coulon, *Grand commerce, groupes urbains et individu dans un centre intermédiaire de Méditerranée occidentale: Perpignan à la fin du Moyen Âge*, Université Paris I Panthéon-Sorbonne (“Mémoire d’habilitation à diriger des recherches”), Paris, 2011, p. 168.
- 44 Flocel Sabaté, “L’augment de l’exigència fiscal en els municipis catalans al segle XIV: elements de pressió i de resposta”, *Col·loqui Corona, Municipi i fiscalitat a la baixa edat mitjana*, Manuel Sánchez, Antoni Furió, eds., Institut d’Estudis Ilerdencs, Lleida, undated (1997), p. 428.
- 45 “demanave’ls a totes passades D florins quitis, ells dient que si’ls sabia hon penjar que no’ls porien pagar”. ACA C, “Papeles por incorporar”, 1379, unnumbered.
- 46 “Dissabte a XXVI. Aquest jorn lo senyor rey tornà sacretament en Barchinona, lexant tota la sua gent d’armes, part a Piera, part a Cervera e part a la vila de Çalacuna, e vench per traure ich la gent de sometent del ‘Princeps namque’, qui molt forçat eixien de ciutat, que par que anassen a la forcha”. Josep Maria Sans Travé, ed., *Dietaris de la Generalitat de Catalunya*, Departament de Presidència de la Generalitat de Catalunya, Barcelona, 1994, vol. 1, p. 180.
- 47 “Señora: ‘Penjat que sia el millor!’ / Miguel: ‘Si al mejor han de ahorcar, / yo me doy por ahorcado’. / Fernández: ‘No soy tan bien criado / que os dejase ese lugar’. / Rodrigo: ‘¿Pues conmigo quien se iguala/ en cosas de bien querer?’ / Alonso: ‘¿Quién aquí no piensa ser / el primero de la escala?’”. Joan Fernández de Heredia, “La vesita”, *Teatre medieval i del Renaixement*, Josep Massot, ed., Edicions 62—La Caixa, Barcelona, 1983, p. 200.
- 48 “qui’m par que van cercant grans dies ha la forcha e no la poden trobar”. Safont, *Dietari o Llibre de Jornades*, p. 147.
- 49 “molts foren stats qui amaren més ésser stats scobats sobre un ase per tota la ciutat que haver oïdes la meytat de les malvastats qui li foren dites en la cara devant tanta bona gent”. Safont, *Dietari o Llibre de Jornades*, p. 255.
- 50 Luciano Gallinari, “Gli ultimi anni di esistenza del regno giudicale d’Arborea: riflessioni e prospettive di ricerca”, *Medioevo. Saggi e Rassegne*, 25 (2002), pp. 155–190.
- 51 “los sarts ab moltes cordes e lligams que havien aperellats se havian lexat dir que penyarien los catalans e que lurs menjarian lo fetja”. Moliné, “Noticiari català”, p. 217.
- 52 R. N. Swanson, *Religion and Devotion in Europe, c.1215—c.1515*, Cambridge University Press, Cambridge, 1995, p. 142.
- 53 Caroline Walker Bynum, *Wonderful Blood. Theology and Practice in Late Medieval Northern Germany and Beyond*, University of Pennsylvania Press, Philadelphia, 2007, pp. 83–131.
- 54 Manuel Pastor i Madalena, *El milagro de Chiva y los Corporales de Daroca*, Rialla editores, Valencia, 2002, p. 37.
- 55 Antoni Llorens, “Sant Ramon Nonat”, *Analecta Sacra Tarraconensis*, 59 (1980), pp. 224–229.
- 56 Enric Bartrina *50 homenots solsonins*, Edicions de l’Albi, Berga, 2004, p. 18.
- 57 James William Bordman, *L’orde de la Mercè*, Vallcorba editor, 1990, p. 149.

- 58 Domingo Costa y Bafarull, *Memorias de la ciudad de Solsona y su Iglesia*, Editorial Balmes, Barcelona, 1959, vol. 2, p. 758.
- 59 Antoni Pladevall, *Sant Pere de Casserres o la presència de Cluny a Catalunya*, Fundació Caixa de Manlleu, Vic-Manlleu, 2004, p. 68.
- 60 Walter Cesana, *San Dalmazzo. Evangelizzatore del Piemonte sud occidentale protomartire in terra cunese*, Primalpe, Cuneo, 2017, p. 39.
- 61 Matthieu Vivas, “La mise en scène de l’outrage dans la mort à travers l’étude de la privation de *sepultura ecclesiastica* eet des sépultures atypiques (XI^e–XIV^e siècles), *Corps outragés, corps ravagés. De l’Antiquité au Moyen Âge. Actes du colloque tenu à Poitiers le 15 à 16 janvier 2009*, Lydie Bodiou, Véronique Mehl, Myriam Soria, eds., Brepols, Turnhout, 2011, pp. 376–377.
- 62 You can see the unduly harsh expression of Judas hanging according to the painting *Le diable et le Pendu* painted in 1492 by Canavesio, conserved in the chapel of Notre-Dame-des-Fontaines in La Brigue. There is a reproduction in: Robert Muchemblend, *Diab!e!*, Éditions du Seuil—Arte éditions, Paris, 2002, p. 30.
- 63 “en lo tercer dia que el fo penyat, els lo veeseren encara penyat e fan bela cara”. Antoni Maria Parramon i Doll, *Miracles de la Verge Maria*, Instituto de Estudios Ilerdenses, Lleida, 1976, p. 112.
- 64 “pensan-se que no fors estret bé ab lo liguam”; “e volgueren-lo hociure ab los coltells”. Parramon, *Miracles de la Verge Maria*, p. 112.
- 65 “axí com lo penyaven Santa Maria ere aquí ab él, qui-l tenie en les forques en les sues preciosos mans; axí que él no sostench nuyl mal”. Parramon, *Miracles de la Verge Maria*, p. 112.
- 66 “ere un ladre qui faiya ladronicis sovent, emperò el avie en gran devoció Santa Maria, que la saludava moltes vegades”. Parramon, *Miracles de la Verge Maria*, p. 112.
- 67 “pensaren-se que la gloriosa Santa Maria l’ayudave, com per honor d’ela els lo despenyaren e el anà-se’n sa e salv sens tot mal e entrasen en un monestir e aquí el fo penitència e fo a servi de Jesucrist e de Madona Santa Maria mentre viu fo, e puys agué la glòria celestial”. Parramon, *Miracles de la Verge Maria*, p. 112.
- 68 Aureli Capmany, *Cançons populars catalanes*, Ketres Editora, Barcelona, 1980, p. 38.
- 69 Antonio Regalado, “Santos, héroes y peregrinos: literatura y tradición oral en los orígenes del Camino de Santiago”, *El camino de Santiago y la sociedad medieval*, Javier García Turza, ed., Ediciones Instituto de Estudios Riojanos, Logroño, 2000, p. 115.
- 70 Marisa Melero-Moneo, *La pintura sobre tabla del gótico lineal*, Universitat Autònoma de Barcelona – Publicacions i Edicions de la Universitat de Barcelona – Universitat de Girona – Universitat de Lleida – Museu Nacional d’Art de Catalunya, Bellaterra-Barcelona-Girona-Lleida, 2005, pp. 136-144.
- 71 Museu Diocesà i Comarcal de Solsona, 13 (Joaquim Calderer, Josep Castells, ed., *Guia Museu Diocesà i Comarcal de Solsona*, Patronat del Museu Diocesà i Comarcal de Solsona, Solsona, 2015, p. 59).
- 72 “Assí como Jesús Cristo, estando na cruz, salvou un ladrón”. www.cantigasdesantamaria.com/csm/13 >. Consulted: 24th June 2018.
- 73 Ana Vázquez, “Variacions sobre el miracle d’el penjat despenjat’ a la tradició compostel·lana de Galícia i Catalunya”, *El camí de Sant Jaume i Catalunya. Actes del Congrés Internacional celebrat a Barcelona, Cervera i Lleida els dies 16, 17 i 18 d’octubre de 2003*, Maria Teresa Ferrer, Pere Verdés, eds., Publicacions de l’Abadia de Montserrat, Barcelona, 2007, pp. 525–532.
- 74 Robert Mills, *Suspended Animation. Pain, Pleasure and Punishment in Medieval*

Culture, Reaktion books, London, 2005, p. 32.

- 75 Luis Rojas Donat, *Poner las manos al fuego. Ordalías, duelos y venganzas en la Edad Media*, Ediciones Universidad del Bío-Bío, Concepción, 2014, pp. 221–260.
- 76 “si axò no és ver e no us ho prou sine quem cremats”. Parramon, *Miracles de la Verge Maria*, p. 42.
- 77 Flocel Sabaté, *La feudalización de la sociedad catalana*, Ediciones Universidad de Granada, Granada, 2007, pp. 81–86.
- 78 “lo seyor feu fer gran foch. E tramès per la fembre e amenaren la li davant ab gran paor que avia com veyà lo foch enzès ja sie come la negave lo feyt”. Parramon, *Miracles de la Verge Maria*, p. 42.
- 79 “perquè com la confesió lava, ela deneya del peccat”. Paramon, *Miracles de la Verge Maria*, p. 42.
- 80 Jean Delumeau, *La confesión y el perdón*, Alianza Editorial, Madrid, 1992, pp. 15–23.
- 81 “com lo diable en semblanza de mercader deiya que no ere aquela, lo seyor lo volch fer penre e que’l metesen al foch, e en azò él si desparch e anasen”. Paramon, *Miracles de la Verge Maria*, p. 42.
- 82 “El año de 1323 acusaron a Thomás Fabro, vecino de la Ciudad de Tolosa en Francia, de algunos graves delitos; para cuya mayor averiguacion le pusieron a question de tormento, en el qual confessó lo que no havia cometido, y assí le condenaron a muerte de horca. Executóse el castigo; pero con prodigio singular, por tres veces se quebraron los cordeles al tiempo de apretarle el lazo, aunque a la segunda, y tercera vez pusieron condeles más recios. Visto sucesso tan estraño, llebaron a Thomás delante del Juez, a quien confessó que se havia encomendado a Nuestra Señora de Monserrate, en lance tan apretado, y que le havia favorecido, por saber bien, que estaba inocente, y no haver cometido los delitos que se le imputaban, los quales confessó por temor del tormento. Diéronle libertad, y el arzobispo mismo de Tolosa, con otros tres obispos, atestiguaron, y firmaron de su mano lo que havia passado; con cuyo testimonio, y con los cordeles, que le havian echado al cuello, vino Thomás Fabro a Monserrate, acompañado de su mugger, y de otros paysanos, a dar las gracias a tan ponderosa señora, de haverle librado del triplicado lazo, con que huviera perdido la vida: porque aunque sea cierto, que ‘Funiculus triplex difficile rumpitur’, al poder, y beneficencia de Maria, con sus devotos, nada hai que sea difícl”. Juan de Villafañé, *Compendio histórico en que se da noticia de las milagrosas y devotas imágenes de la Reyna de cielos y tierra María Santíssima, que se veneran en los más celebres santuarios de España*, Imprenta y librería de Manuel Fernández, Madrid, 1740, p. 358.
- 83 Sari Katajala-Peltomaa, *Gender, Miracles, and Daily Life. The Evidence of Fourteenth-Century Canonization Processes*, Brepols, Turnhout, 2009, pp. 4–299.
- 84 Michel Goodich, “Reason or revelation? The criteria for the proof and credibility of miracles in canonization processes”, *Procès de canonisation au Moyen Âge. Medieval canonization processes*, Gábor Klaniczay, ed., École Française de Rome, Rome, 2004, pp. 181–197.
- 85 *City Witness. Place and Perspective in Medieval Swansea* <www.medievalswansea.ac.uk/en/the-story>. Consulted: 4th August 2018.
- 86 Robert Bartlett, *The Hanged Man. A Story of Miracle, Memory, and Colonialism in the Middle Ages*, Princeton University Press, Princeton – Oxford, 2004, pp. 1–142.
- 87 “Santa Gleisa’us somon/que non aiats temensa ni mala sospeison, qu’ela a poder que’us tola e ha poder que »us perdon; e si be la sirvetz aurretz ne

- gazerdon". *La chanson de la croisade albigeoise*, ed. Eugene Martin-Chabot, Les Belles Lettres, Paris, 1989, p. 458.
- 88 Henri Gilles, "Peine de mort et droit canòniques", *La mort et l'au-delà en France méridionale (XII^e–XV^e siècle)*, Éditions Privat, Toulouse, 1998, p. 413.
- 89 In Cardona, for example, they were demolished in 1795. Andreu Galera, *Cardona medieval: itinerari per la vila i la seva història*, Ajuntament de Cardona, Cardona, 2008, p. 61
- 90 Paul Friedland, *Seeing Justice Done. The Age of Spectacular Capital Punishment in France*, Oxford University Press, Oxford, 2012, pp. 124–191.
- 91 The paintings "The Triumph of Death" and "Magpie on the Gallows", respectively in the Museo del Prado in Madrid and the Landesmuseum in Darmstadt. Francisco Prados de la Plaza, *Brueghel*, Sarpe, Madrid, 1979, sheets 5 and 19.
- 92 Anthonisz Cornelisu, Bird's-eye View of Amsterdam, Amsterdam Museum. https://commons.wikimedia.org/wiki/Cornelis_Anthonisz.#/media/File:View_of_Amsterdam.JPG. Consulted: 4th August 2018.
- 93 Joan de Déu Domènech, *L'espectacle de la pena de mort*, La Campana, Barcelona, 2007, p. 7.
- 94 Josep Maria Huertas, *Mites i gent de Barcelona*, Edicions 62, Barcelona, 2011, pp. 18–19.
- 95 Mels F. Van Driek, "Physiology of Penile Erection. A Brief History of the Scientific Understanding up till the Eighties of the twentieth Century", *Sexual Medicine*, 3/4 (2015), pp. 349–357. <www.ncbi.nlm.nih.gov/pmc/articles/PMC4721040> Consulted: 2nd August 2018.
- 96 "Mandrake", *New World Encyclopedia* <[www.newworldencyclopedia.org/entry/Mandrake_\(plant\)](http://www.newworldencyclopedia.org/entry/Mandrake_(plant))>. Consulted: 2nd August 2018.
- 97 "las más prodigiosas de estas raíces eran las que habían sido rociadas con la orina de un ahorcado". José Ramón Gómez Fernández, *Las Plantas en la Brujería Medieval (Propiedades y Creencias)*, Celeste Ediciones, Madrid, 1999, p. 100.
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- 99 Adriano Prosperi, *Delitto e perdono. La pena di morte nell'orizzonte mentale dell'Europa cristiana. XIV–XVIII secolo*, Giulio Einaudi editore, Turin, 2013, pp. 505–537.
- 100 Alejandro Llinares, "El final del bandoler: aproximació a la literatura de patíbulo de la Corona d'Aragó", *Scripta. Revista internacional de Literatura i Cultura Medieval i Moderna*, 10 (2017), <<https://ojs.uv.es/index.php/scripta/article/view/11085/10278>>. Consulted: 4th August 2018.
- 101 Vicente Adelantado, "La pena de muerte como espectáculo de masas en la Valencia del Quinientos", *Estudios sobre teatro medieval*, Josep Lluís Sirera Turó, ed., Publicacions de la Universitat de València, Valencia, pp. 15–24.

16 Consolidating power and social cohesion through the death penalty

As we have seen, the death penalty spread across Europe from the twelfth century accompanying the spread of Roman law. This legal base not only endorsed the practice but also granted it high political significance, because it enabled the power of the sovereign to be identified with he who enjoyed the *merum imperium*. Whoever held this position could take decisions about the physical integrity and privation of life of all his subjects for reasons of justice.¹

At the same time, the influential *Decretum Gratiani* was giving a nuanced place to capital punishment. Continuing the patristic tradition, with Ambrose and Augustine, Gratian contrasted the old law of the Old Testament, that sought punishment, with the new law of the New Testament, that primed correction through penitence: “in lege enim veteris testamenti corporalis pena statuta est; in lege vero evangelii omni peccanti per penitenciam venia promittitur”.² However, he then made the same concession as the patristic authors, such as Augustine of Hippo, stating that he who imposes capital punishment by applying a commandment endowed with public authority does not incur any blame.³ He who kills bad people when pursuing them, or spills the blood of murderers, those who commit sacrilege or poisoners to punish them was in reality a minister of the law:

C. XXVIII. Qui crudeles iugulat non est talis, qualis patientibus videtur. Idem super Ysaïam [ad c. 13]. Non est crudelis qui crudeles iugulat: sed crudelis patientibus esse videtur. Nam latro suspensus patibulo crudelem iudicem putat.

C. XXIX. Minister Domino est qui malos pertutit in eo, quod mali sunt. Idem super Ezechielem libro III [ad c. 9]. Qui malos pertutit in eo, quod mali sunt, et habet uasa intrefectionis, ut occidat pessimos, minister est Domini.

C. XXX. Non scelus admittit iudex, qui hominem uincit. Idem super epistola ad Galathas libro II. [ad c. 3]. Iudex non est auctor sceleris, homines uincendo.

C. XXXI. Non sanguinem fundit qui homicidas et sacrilegos punit. Idem super Hieremiam. [lib. IV., ad c. 22]. Homicidas, et sacrilegos, et

uenenarios punire non est effusio sanguinis, sed legum ministerium.⁴ This opinion spread in the approach by theologians. Peter of Blois repeated textually this latter decree of Gratian addressed precisely to he who administered capital punishment as an exercise of justice in the king's name: "Nonne rex accipit gladium materiale ab ecclesia, et in hoc est minister ecclesie? Estne ecclesia auctor sanguinem effundendi? De hoc dicitur super Ieremiam: 'Homicidas et sacrilegos punire non est effusio sanguinis sed ministerium regis'".⁵

In emphasising these words, Peter of Blois was justifying the spilling of blood in the name of justice but, at the same time, letting it be seen that not everyone agreed with this. Thomas Aquinas echoed opinions which expressed disapproval of the death penalty for religious reasons. They considered physical punishment to be illicit—"dicentium vindictas corporales non licite fieri"⁶—because the Book of Exodus and the Gospel of Saint Mathew prohibited killing. Moreover, it was thought that while there was life, a human being could always be redeemed. So, the culpable need be put to do penitence until they showed they were well rehabilitated: "homo quandiu in mundo est, potest in melius transmutari. Non ergo est per occisionem subtrahendus a mundo, sed ad penitentiam reservandus".⁷ However, Aquinas strongly refuted these views, which he reduced to the condition of errors. He considered that the governing prince had a duty to lead society for the common good, but that this could be placed at risk by the perversity of certain persons, and given that the common good is superior to the particular and personal good, there was no doubt that those parts of the social tissue that could harm the good of all the society had to be extirpated:

bonum commune melius est quam bonum particulare unius. Subtrahendum est igitur bonum particulare ut conservetur bonum commune. Vita autem quorundam pestiferorum impedit commune bonum quod est concordia societatis humanae. Subtrahendi igitur sunt huiusmodi homines per mortem ab hominum societate.⁸

The ruler acts like the doctor: they both try to achieve peace and concord of the elements they are responsible for. One concerns himself with the humours—"medicus in sua operatione intendit sanitatem, quae consistit in ordinata concordia humorum"—and the other with the subjects under him: "rector civitatis intendit in sua operatione pacem quae consistit in civium ordinata concordia". That is why the doctor cuts out the rotten tissues—"medicus autem abscindit membrum putridum bene et utiliter si per ipsum immeneat corruptio corporis"—and clearly the ruler does not do anything wrong if he has the rotten elements of human society killed to preserve peace: "iuste igitur et absque peccato rector civitatis homines pestiferos occidit ne pax civitatis turbetur". Aquinas also supported this approach with

biblical arguments, citing the Epistle to the Corinthians, the Epistle to the Romans and the First Letter of Saint Peter to assume the divine commandment that society itself should expel the evil from its midst—“auferte malum ex vobis” (1 Cor 5.13)—through the responsibility its rulers have—“non sine causa gladium portat: Dei enim minister est vindex in iram ei qui male agit” (Rom 13.4)—precisely to pursue the malefactors: “subiecti estote omni humanae creaturae propter Deum: sive regi quasi praecellenti; sive ducibus, quasi missis ad vindictam malefactorum, laudem vero bonorum” (1 Petr 2,13–14).⁹ Finally, the possibility that the culpable could be corrected was not a valid argument for Thomas Aquinas, because being condemned to death, they could also repent, do penance and save themselves. It also had to be borne in mind that many of these bad people who had to be excised were so obstinate that they would never repent: “quod si adeo sunt obstinati quod etiam in mortis articulo cor eorum a malitia non recedit, satis probabiliter aestimari potest quod nunquam a malitia respiciant”.¹⁰ Aquinas’ approach contains a negative and pessimistic view of certain human beings, thus supposing an attitude of contempt for them, as he sees them fated to eternal condemnation through their own irresponsibility.

Thomas Aquinas’s way of thinking determined the approach of the late-medieval Church, fully accepting the death penalty, believing that it was justified through the protection of wider society and the common good. This fits with the vital importance of the common good in structuring a harmonious and balanced society. As Henry of Ghent added, reoffending, especially in cases like robbery, showed a progressive aggravation that culminated in an evident incapacity to correct the delinquent and, so, making it necessary to act forcefully to terminate the life of a corrupt part of society. Thus, the common utility and the necessity to cut off the corrupted member in society were reiterated as justifications for capital punishment by other contemporary authors, like John of Freiburg. The aim was to do justice, so, as this same author remarked resuming arguments previously presented by Raymond of Penyafort, if this rectitude was lacking and, if the judge had malign intentions or a taste for spilling blood, then he should be reprovved on pronouncing a death sentence.¹¹ Taking pleasure in torture and loving to punish are qualities of the devil, and the redemption of Christ had precisely freed humans from arbitrary punishment and put them in the hands of God’s justice (“emit autem Filius Dei humanum genus a diabolo violento et iniquo tortore et a Deo Patre iusto punitore”).¹² For this reason the punishment could only be related to justice, and the contrary would be linked to the devil, as in the contrast explained by Robert Grosseteste: “Ut autem hec clarius intelligantur ymaginemur regem

iustum aliquem cuius servus meruerit carcerem et suo merito in carcere detrudatur. Ymaginemur etiam tortorem qui dictum servum non amore iusticie sed invidia et torquendi libidine eum incarceratum torqueat”.¹³

To enforce the ultimate punishment by applying the death penalty could only be given a good explanation in late-medieval social thought, by taking the contrast between the common good and the particular good of the accused to the extreme. Jurists like Bartolus de Saxoferrato stated that there was nothing more precious and important to a person than his or her own life, so, as the jurist Jean Faure also added, the death penalty had to be the last of the remedies to be applied by a judge.¹⁴ Jean Gerson, in his religious and social reforming purpose also insisted in moderation in the application of capital punishment¹⁵ and explicitly included it in the famous *Diligite iustitiam* speech given to the Parliament of Paris on one day between November 1405 and April 1406.¹⁶

Accordingly, the death penalty had to be a last and extreme measure, applied by those who had the responsibility to govern society, not for their arbitrary or personal gain but rather for the collective good of society as a whole. That is why it led to the joyful participation of the population, who felt safer from having escaped from these pernicious elements. It was logical that the execution of the punishment was public and participative. The aspect of intimidation was a natural addition: the application of capital punishment showed that the society expelled those who could damage it from within, so the cruelty of the amputation of members of society had a moralising effect on those who were considering offending. The increasing use of the death penalty and the degrees of cruelty and pain involved makes sense. Contributing to inflicting suffering on the prisoner emphasised the exclusion of dissidence and, with that, the path to wider social cohesion. In a society like the medieval one, interpreted as a single body, disorders, whether criminal or doctrinal, had to be cut out to avoid damaging society as a whole. This was especially so when its prosperity depended on factors that were only in the hands of God, the author of the ruling order, whose wrath could destabilise the order necessary for prosperity, as demonstrated by the problems that afflicted the late-medieval society.¹⁷ The gradual increase of prosecutions and punishment for witchcraft and the similar trend in sentences for heresy show the growing weight of a realist religiosity that channelled social difficulties into the fear of God. Restoring the lost order, in a way, atoned for social guilt,¹⁸ with the consequent reconciliation with God, thus coinciding with the expiatory aspect of religion at the end of the Middle Ages.¹⁹

This approach encouraged the strong popular participation, with

assumed, proud and exultant cruelty in the derision, abuse and aggressiveness against the accused who were dragged, against the condemned who were amputated or against the Jews and Muslims who were stoned and prodded with canes.²⁰ It was a festival which encouraged participation that drew all the society together, bringing together the common people and those who wielded justice in a shared activity to expel the illegitimate elements. It is thus understandable that the sergeants encouraged the insults, reminding the people about the perverse condition of the guilty, which justify the death penalty and the common hate. So a clear “vindicative spirit” that added “impersonal and collective motivation” to the complacency “of the truculence of the ordeal” has been appreciated in the participation of the populace.²¹ There was a festive atmosphere, sometimes with trumpets accompanying the procession, as we have seen in towns like Cervera and as happened in other parts of Europe, where there was no lack of musical instrument. It was festive, but also disdainful—mocking and carnivalesque—of the accused, those who had dared to violate the norms of the social order.²²

There is no doubt that there was a “visible lesson of exemplary” a kind of message sent by the authorities through the ritual of applying capital punishment. Nor is there any doubt that the late-medieval population participated enthusiastically in these rituals. However, we can ask, as Paul Friedland does, whether the people were conscious of the lesson and with what degree of awareness they participated in “an act of collective healing”.²³ Indeed, popular participation continued to grow until the eighteenth century, with executions becoming a shared festival. It also became the best way to demonstrate, more or less consciously, but in any case effectively, the collaboration with power and the ideology that gave sense to the social order.

Medieval society’s coherence, where all the explicative frameworks coincided because both the natural and the social orders arose from the same divine will,²⁴ completed the explicative circle as even the Bible justified and showed death penalties on the gallows. The Book of Esther explains the erection of a gallows to hang Mordecai and how finally the king overcame his wrath when the same person who had instigated their erection was hung on these gallows:

Harbona, one of the chamberlains said before the king: ‘Behold also, the gallows fifty cubits high, which Haman had made for Mordecai, who spoken good for the king’, standeth in the house of Haman. Then the king said: ‘Hang him thereon’. So they hanged Haman on the gallows that he had prepared for Mordecai. Then was the king’s wrath pacified.²⁵

Some miniatures depict this image, like the Bible of Souvigny dated from the last quarter of the twelfth century, which ensured the

transmission of biblical kings appeasing ire through the gallows and the visualisation of this in a biblical book.²⁶ Some Christian images were familiar with the forms of the death penalty. Christianity was explained by the clergy and experienced by the people as a series of moralising stories of Jesus Christ and the saints ("Christianity is clearly based on Gospels and the lives of Saints" was stated in Barcelona in 1417²⁷). On the walls of the churches, for example, people saw saints being martyred for the faith through such torments as the pyre. In the small village of Mas de Bondia, from the second half of the fourteenth century, on the altarpiece of the church people could contemplate the colleagues of Saint Catherine suffering martyrdom on a perfect pyre, including a pole for subjecting each person burnt (see the frontispiece of this book).²⁸ The same episode from the life of Saint Catherine was represented, in the same moment, in a bas-relief attributed to Giovanni e Pacio da Firenze in the mendicant church of Saint Claire (Santa Chiara) in Naples, also including the depiction of the bundles of wood to feed the fire.²⁹ In the martyrdom of Saint Catherine, the good people were those burnt, but in any case the image facilitated a popular understanding of the bonfire. Even more directly, the destruction of the cities of Sodom and Gomorrah under the fire in Genesis (Gn 12: 1-25) was explained as the punishment by God to the vice against nature of its inhabitants, to the extent that the name of the city was onwards taken to mention this huge sin and crime: sodomy. People could see the flames devouring Sodom in paintings like the one created by the Flemish Herri met de Bles in 1554, linking thus the will of God punishing these acts and the fate of the male homosexuals condemned by their demerits to perish in the bonfire.³⁰

Conceptual coherence facilitated the natural way in which the pairing between both crime and sin as two faces of the evil that besieged society was experienced. That was why it was so important to return to order, the order designed and desired by God. In this assertion, there were no doubts about the severity of punishment as the best antidote against the increase in delinquency, as the bailiff of Tona stated in 1324.³¹ The stiffening of sentences would punish the delinquents and intimidate those tempted to offend, as the council of Tortosa proclaimed in 1340 on increasing punishments for theft with sentences that could reach the gallows:

As the malice of the evil people grows, many and varied thefts are beginning to be done by bad people, both by day and by night, in the above-mentioned City. For this reason, it is necessary to act against so huge misdeeds in order to punish the criminals with punishments which were hard for them as well as example for the rest of the people.³²

The increase in the use of the death penalty went hand in hand with the increase in physical punishments and the greater use of legal torture, which would become even more widespread in the modern centuries.³³ The resort to pain, cruelly shared between the gentry and popular participation, emphasised the exemplariness and, especially, the path to social cohesion: the social body shared, even enjoyed, the punishment and extirpation of those who damaged the whole. That is why when sentencing not only was the offence taken into account, but also the *fama publica*, the identity and vital characteristics of the prisoner. The crime punished was not an isolated fact but a clear sign of the manner and style of life of he who had broken the social order, thus meriting becoming a subject of exclusion because his offence to the whole society would be repaired socially by completely cutting out the damaged element from society. That also explains the integration of heartlessness into the normal social behaviour. In May 1464, the notary Safont, for example, described two pieces of news: the activities in Lleida by the king against his enemies in the civil war like selling them as slaves; moreover, the legal and jurisdictional slaves after putting iron rings on their legs and branding signs in their foreheads; and the execution on the pyre in Barcelona of two sodomites, one of them an important citizen. The latter was described as an usual execution, and only the former merited being qualified as a cruel act.³⁴

Obviously, there was no social policy to draw up a strategy of crime prevention,³⁵ but the fear of the dangers hanging over society, emphasising the anger of God, contributed to a global treatment, in the sense of persecution of evil, seeing in this the different elements that damaged society. This was in line with other contemporary European scenarios, where those that were considered habitual criminals, given their reoffending, were submitted to exemplary executions with cruelty by a public power that felt itself obliged to prevent society from being contaminated.³⁶ In this sense, the death penalty, increasingly applied with cruelty and crudity, connected with the notion of evil that had to be cut out and, with this, the model of society that it was wished to impose.³⁷ As we have seen, the invocation of the death penalty was intended to halt the rise in urban tensions in the second half of the fourteenth century. This had to stop the escalation of the struggle between bands, and so, in Barcelona, its application was decreed for anyone who promoted “fights and scuffles”.³⁸ It also had the purpose of slowing down the disorderly immigration of the poor into the cities, avoiding “vagabonds who did not want to do any work” from hanging around the streets, in a clear path towards a criminalisation of economic and social marginalisation.³⁹

However, its failure is evident. The social dynamics soon continued their course with the articulation of group and faction solidarities and the development of balances between the different social strata.⁴⁰ And in the persecution of the crime, the results were hardly positive, and this is consistent with what was also seen in other countries:

Executions, at the rate of 2 to 6 per year in a large seignioury (Guingamp, Lamballe, Moncontour, Quintin), do not seem to have had the salutary effect that the authorities desired. Crime does not diminish and even seems to increase at the end of the century with the political and economic difficulties.⁴¹

Moreover, the legal and jurisdictional system supplied several paths through which the accused could slip, annulling in practice any supposed corrective power through the capital sentence. Thus, changing jurisdiction or even personal jurisdiction—*fur*—was a strategy that very often meant real impunity. Certainly, some people were persecuted by the justice where they had offended—*bandejaments*—but, even in cases of murder⁴² that would presumably carry the death penalty, they lived in freedom only taking care to avoid the jurisdiction where they were wanted.⁴³ In many other cases, an investigation by the jurisdictional court, despite attending to the evidence—*indicis*—, failed to establish responsibilities and conclude the investigation.⁴⁴ Despite this, some crimes were solved relatively fast, thanks to the high degree of common knowledge in small population centres. However, if it did not work this way, the passing of time usually worked in favour of irresolution. The lists of interventions by the ordinary courts show a high rate of unsolved crimes: the number of accusations lodged and investigations carried out was much higher than the number of trials and executions. Apart from limitations in the capacity to investigate crimes,⁴⁵ the political, social and, corollary, judicial systems presented sufficient cracks for the Barcelona municipal council to claim in 1456, that one of the three principal problems was that “currently, many people insisted to kill and harm others in Barcelona and these are not punished”.⁴⁶

Faced with this diagnosis, the municipal government of Barcelona interpreted it in its own interest, that if its powers were reinforced, the situation would therefore improve, so the same complaint continued to warn that the rights that were assigned to the city and its inhabitants were not respected: “privilegis, constitucions, usatges e altres libertats”.⁴⁷ In fact, this problem was used by everyone for their own ends in the different discourses for the strengthening of power, because from stronger positions they could demand collaboration from neighbouring jurisdictions and confront the internal forces who destabilised society through crime and sin. The response to crime meant reinforcing the structures of collective solidarity, as seen in the

medium-sized and large places with formulas of solidarity, such as the *sometent* as a popular militia,⁴⁸ and also in the smaller villages trying to be admitted into the circles of solidarity of the larger towns and cities, as achieved with legal formulae like the so-called *carreratge*.⁴⁹

These measures were aimed at accentuating judicial efficiency in a scenario of jurisdictional fragmentation, while inside the society no other solution was envisaged than to increase the punishment and the cruelty with which crime was pursued to instil “terror” among those who wanted to offend.⁵⁰ The insistence on the term fear became a strong and permanent social reference. Very clearly, in the sixteenth century, on commenting on and completing the inquisitorial manual that Nicolau Eimeric had drawn up in 1376, the inquisitor Francisco Peña claimed that, “the purpose of trial and the sentencing to death was not to save the soul of the accused, but to maintain the public good and terrorise the people”.⁵¹

Thus, justice, with its death penalty, formed part of the terror with which to control society. This means of controlling society began in the Late Middle Ages but would only bear fruit in its full sense in the later centuries.⁵² In this sense, if the death penalty can be defined as the capacity to exclude the desegregating agents from the social body, it is clear that enjoying the authority to dictate this destiny meant being in possession of true power. That is why the gallows adopted a specific and powerful function in jurisdictional delimitation. If the discourse of strengthening royal power, based on Romanist reasoning, aimed to identify the monarch with the public, in contrast to the private—“The king makes the commandment for reasons of public profit, and the public profit is worth more than the private”—,⁵³ the consolidation of the royal district officials, in turn, meant claiming a public justice identified with the king, who assumed the pacification of society as one of the attributes in his pre-eminence over the country as a whole. In this framework, popular participation in public penalisation could be accepted and integrated as deepening part of the discourse of regal consolidation. The participative ceremonial of bringing the population and sovereign power closer became a type of propaganda with which public punishment displayed the ideology of a justice that accepted social pacification as a challenge.⁵⁴

This approach was even easier to share when the enemy was from abroad, like those accused of espionage, as reiterated during the armed conflict on Sardinia: in 1394 “they hung one Sard man who was taken from Sardinia to Barcelona by the governor of there. And he had come as a spy”.⁵⁵ This behaviour was equally comparable in other countries: in England it was explained that King Alfred led Danish invaders to the gallows.⁵⁶ The punishment implied an exemplary function over the population, who would know especially

how the sovereign punished enemies and traitors.

Beyond these situations, the king managed his supreme position by flaunting the justice through two apparently contradictory measures, depending on the necessities of each moment, although both aimed to display the superior power of the sovereign: on one hand, by offering redemptions, collective or personal, and on the other, imposing very harsh sentences. The former tactic was closely linked to the monarch's financial necessities, because large financial contributions were usually made in exchange for these redemptions. This was so appealing that redeeming crimes this way often became an objective in itself, converting general redemptions into a sort of covert taxation through which the monarch or his governor extracted money from the population.⁵⁷ It was precisely this behaviour that became the main reason for discrediting the judicial decisions made in his name by the ordinary officials.⁵⁸ The second, the severity that the king could show in certain actions aimed to display him in such a high position that it could almost appear arbitrary, but that was justified by the preservation of the social order. This aspect allowed singular behaviour according to the personality of each king. We can recall here Jaume Riera who interpreted that the repression for the assaults on the Jewish quarters in 1391 was due mainly to the typically oppressive policies of King John I.⁵⁹ In reality, these attitudes formed part of the sovereign's strategy, one that sought the degree of emotiveness he considered adequate in his subjects.⁶⁰ The medieval king could do nothing other than manage the *regimen* of society,⁶¹ in other words, to form a pact with the different holders of power, whether barons and nobles, bourgeoisie or clergy.⁶² Catalonia became an excellent example of this model because the severe jurisdictional and taxation fragmentation forced them to rule by agreement.⁶³ This also oriented a permanent search for an advantageous position from which to negotiate these pacts. The general conviction that society had to be ruled by fear fit perfectly with a policy of pacts, because the displays of great power—*donar terror*⁶⁴—imposed order on society and, at the same time, facilitated the high position from which the king wished to enter the pact.⁶⁵ Thus, in the hands of the king, justice became a tool invested with a symbology that was easy to activate in a context where the same king lacked the financial and jurisdictional resources.

Indeed, with one strategy or the other, either seeming a careless monarch who modified the sense of justice in exchange for money or acting as an authoritarian ruler, the workings of the justice system and the use of the death penalty recalled the consolidation of the power of the sovereign and highlighted his eminent position. These positions were justified by God's will granted to the dynasty.⁶⁶ As Peter the

Ceremonious proclaimed to the Courts or Parliament of Monzón in 1382–84, all his predecessors in the Kingdom of Aragon and the County of Barcelona had complied with the three elements that made up the duty of a good king: defending the territory, ruling it by granting privileges, and pronouncing justice.⁶⁷ The death penalty was justified as being among these functions of the Crown, in line with the Christian principles that set out a duty to seek the common good.⁶⁸ Thus, there was no room for arbitrariness. It was the king who had to submit to the law and not the other way round, as contemporary moralists—and counsellors—very close to the royal house recorded, including Francesc Eiximenis.⁶⁹ Therefore, the contractual conception of power reached the highest expression, promoted by members of the Franciscan order which at the same time was related to the Catalan-Aragonese royal house from the thirteenth century onwards.⁷⁰ In this sense, during the Late Middle Ages, translations of Cicero's *De officiis* into Catalan and Aragonese circulated in the Crown of Aragon, including the fragment where he recalled that Eteocles or Euripides understood that the law could be broken if the aim was to reign. Cicero not only rejected these opinions but also considered that this meant they were deserving of capital punishment: “worthy of capital sentence”.⁷¹

In respect of the legal framework, the sovereign accepted the circumstances of jurisdictional fragmentation, where the majority of the territory lay beyond the reach of his officials⁷² and remained in the hands of those lords who held full jurisdictional powers.⁷³ In that context, the nobles and barons who enjoyed *merum et mixtum imperium* had to assert the legitimacy of their full jurisdictional capacity through the exercise of justice itself. The ability to hand down death penalties, as we have seen, was the principal guarantee that defined the respective baronial power with a sovereign capacity.⁷⁴ In reality, all the ideas about the social order refer to the death penalty, even those directed at consciences. On the one hand, the different members of the ecclesiastical hierarchy who enjoyed full jurisdictional power acted in their respective domains like any baron in his, using this power to apply the death penalty as the clear indicator of their supreme jurisdictional domain. On the other hand, and at the same time, by monopolising the capacity to define normality, in all its extremes and contents,⁷⁵ the Church referred, in last place, to the capacity to exclude completely those who did not fit into the specific guiding principle of order. The power of the Church to exclude from the eternal life by excommunication had a great impact on a popular level. There were many complaints from the people about the effects of this because differences about fiscal demands, loans not repaid or jurisdictional conflicts were easily answered by the Church through

the excommunication of a lord or royal official and the interdiction of all the respective subjects. These consequently were deprived of religious sacraments, running the risk of losing eternal salvation, in accordance with the realist interpretation of religion then accepted by a population fearful of this situation.⁷⁶ The power of the Church to dictate on crimes of conscience also affected the fate of earthly life and human bodies. These, by order of an ecclesiastic judge like the inquisitor, could receive the death penalty in its cruellest and most striking manifestation: punishment on the pyre applied by a secular authorities that, in this aspect, was restricted to executing the orders of the ecclesiastical judge.

For their part, the claims of the urban oligarchies to take part in this power play were based on the participative discourses and on their economic and social vigour. This strength enabled them to negotiate with the monarch for compensation for the financial assistance the latter required and the power to influence not only the local administration but also the real political management, in accordance with the interests of the bourgeois elites. The monarch and the estates proclaimed apparently diverging discourses of power to consolidate their respective demands for pre-eminence. However, in reality, the municipal discourse aimed to guide the representativeness of the estates⁷⁷ and in this sense, the municipal pretensions consisted of taking over the legitimacy of the sovereign. The consequence of this was that royal officials intervened in the territory in favour of the urban interests but invoking the jurisdiction and power of the king.⁷⁸ In this display of municipal strength, access to the death penalty became vital. As we have seen, the large municipalities used their own resources to maintain the gallows, and in many cases they consolidated access to the exercise of justice, so participating in the pronouncement of sentences, and the municipal ordinances in the large places could even graduate penalties up to and including the death penalty for intimidatory purposes.

Thus, in a political framework that led to pacts, as medieval political power was based on how the different holders of power fitted together,⁷⁹ the death penalty formed part of the measures of ostentation and claims to power by all the participants in these power struggles. Although invoking the duty to preserve order lay at the heart of the all discourses justifying the death penalty, it is evident that this had become an instrumental tool in the game of power. That being so, the most important would not be objectiveness in punishing evil but rather the display of power.

Notes

- 1 See the chapter “Sovereignty and merum imperium” in this book.
- 2 Grat. *Decret C.* 23, q. 4. c. 15 (*Corpus iuris Canonici. Pars prior Decretum Magistri Gratiani*, ed. Aemilii Ludovici Richter, Aemilius Friedberg, Officina Bernhardi Tauchnitz, Leipzig, 1879, p. 744). <www.internetsv.info/Archive/DecretumG.pdf> Consulted: 27th July 2018.
- 3 Avery Dulles, “Catholicism and Capital Punishment”, *First Things*, 112 (April, 2011), pp. 30–32.
- 4 Grat. *Decret C.* 23, q. 5. c. 28–31. (*Corpus iuris Canonici. Pars prior Decretum Magistri Gariani*, p. 775). <www.internetsv.info/Archive/DecretumG.pdf> Consulted: 27th July 2018.
- 5 Elizabeth Revell, ed., *The Later Letters of Peter of Blois*, The British Academy—Oxford University Press, New York, 1993, p. 269.
- 6 Thomas Aquinas, *Summa contra gentes*, liber 3, cap. 146; Tomás de Aquino, *Suma contra los gentiles*, Biblioteca de Autores Cristianos, Madrid, 2007, vol. 2, p. 515.
- 7 Aquinas, *Summa contra gentes*, liber 3, cap. 146; Aquino, *Suma contra los gentiles*, vol. 2, p. 516.
- 8 Aquinas, *Summa contra gentes*, liber 3, cap. 146; Aquino, *Suma contra los gentiles*, vol. 2, p. 515.
- 9 Aquinas, *Summa contra gentes*, liber 3, cap. 146; Aquino, *Suma contra los gentiles*, vol. 2, p. 515.
- 10 Aquinas, *Summa contra gentes*, liber 3, cap. 146; Aquino, *Suma contra los gentiles*, vol. 2, p. 517.
- 11 Elsa Marmursztejn, *L'autorité des maîtres. Scolastique, normes et société au XIII^e siècle*, Les Belles Lettres, Paris, 2007, pp. 252–256.
- 12 C. William Marx, *The Devil's Rights and the Redemption in the Literature of Medieval England*, D. S. Brewer, Cambridge, 1995, p. 156.
- 13 Marx, *The Devil's Rights and the Redemption*, p. 156.
- 14 Jean-Marie Carabasse, *La peine de mort*, Presses Universitaires de France, Paris, 2002, pp. 39–40.
- 15 Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation*, The Pennsylvania State University Press, University Park, 2005, pp. 185–196.
- 16 Guillaume Henri Marie Posthumus Meyjes, *Jean Gerson et l'Assemblée de Vincennes*, E. J. Brill, Leiden, 1978, pp. 34–53.
- 17 This is partly the vision of a distressed society portrayed by Huizinga: Johan Huizinga, *El otoño de la Edad Media*, Alianza Editorial, Madrid, 1988, pp. 304–353.
- 18 Michel Bée, “Le spectacle de l'exécution dans la France de l'Ancien Régime”, *Annales. Histoire, Sciences Sociales*, 38 (1983), pp. 842–862.
- 19 Claude Carozzi, *Visiones apocalípticas en la Edad Media. El fin del mundo y la salvación del alma*. Siglo Veintiuno de España editores, Madrid, 2000, p. 175.
- 20 The people attending could even complain if they did not see the condemned suffer: “Etienne de Bourbon, Dominican and inquisitor in the mid-thirteenth century, responding to the astonishment of the public who did not see the victims suffer, replied that at least they stank” (“Etienne de Bourbon, dominicain et inquisiteur au milieu du XIII^e siècle, pour répondre à l'étonnement du public qui ne voyait pas souffrir les victimes, répondait que du moins elles puaient”). Jean Duvernoy, “Le repentir de l'hérétique”, *La culpabilité*, Jacqueline Hoareau-Dodinau, Pascal Texier, eds., Presses Universitaires de Limoges, Limoges, 2001, p. 446.
- 21 “spirito vendicativo”; “motivazioni impersonali e collettive”; “della truculenza del supplizio”. Andrea Zorzi, “Le esecuzioni delle condanne a morte a Firenze nell tardo medioevo tra repressione penale e cerimoniale

- pubblico”, *Storico e realtà della vita urbana nel tardo medioevo*. *Arti del V Convegno storico italo-canadese (Viterbo, 11–15 maggio, 1988)*, Massimo Miglio, Giuseppe Lombardi (dirs), Vecchiarelli editore, Manziana, 1993, pp. 43–44.
- 22 Paul Freedman, “Atrocities and Executions of the Peasant Rebel Leaders in Late Medieval and Early Modern Europe”, *At the Edge of Law: Socially Unacceptable and Illegal Behaviour in the Middle Ages and Early Modern Period*, Suzana Miljan, Gerhard Jaritz, eds., *Medium Aevum Quotidianum*. Gesellschaft zur Erforschung der materiellen Kultur des Mittelalters, Krems, 2012, pp. 75–77.
- 23 Paul Friedland, *Seeing Justice Done. The Age of Spectacular Capital Punishment in France*, Oxford University Press, Oxford, 2014, pp. 91, 119–120.
- 24 Flocel Sabaté, “Natura i societat en la cosmovisió medieval europea”, *L’Edat Mitjana. Món real i espai imaginat*, Flocel Sabaté, ed., Editorial Afers, Catarroja —Barcelona, 2012, pp. 39–56.
- 25 Esther, 7, 9–10.
- 26 MMM, Ms. 001, f. 284r. It is possible to see this online: <http://mediatheques.agglo-moulins.fr/opac/recherche/viewnotice/id/5401368#/page/573> Consulted: 3rd August 2018.
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- 28 Museu Episcopal de Vic, piece 1051–1052.
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17 The death penalty in a tense Catalonia at the end of the Middle Ages

The last medieval century was a tense period in Catalonia politically and socially. There were controversial royal successions, a serious fracture between political parties in the country's capital, agrarian revolts and a civil war. The death penalty appears in all these episodes, used as a strategy for the legitimation or ostentation of power.

The sequence of events began with the sudden death of King John I in 1396. The representatives of the city of Barcelona immediately took the reins and steered the succession towards his brother Martin, avoiding the deceased king's daughter, who was married to the powerful count of Foix.¹ The apparent power vacuum created the ideal circumstances to strengthen the political model where real sovereignty did not lie with the king but rather with the estates.² So, before the reading of the will the deceased had written nine years before,³ some municipal, noble and ecclesiastical representatives declared that they would not accept this testament if it did not benefit Martin. Thus, the word of the representatives of the "land" regarding the ruling of the country was placed over the king's will.⁴

When Martin died fourteen years later, in 1410, a year after the death of his only son, the city of Barcelona again led the succession. At that time, leaving aside the king's illegitimate grandson (the minor Frederick,⁵ preferred as successor by King Martin according to the chronicler Valla,⁶ although the king could only bequeath him the kingdom of Sicily,⁷ a donation, however, that would never be effective⁸), the representatives of the estates were divided between Count James of Urgell, Martin's closest relative in the male line, who was also his brother-in-law and governor general, a title usually reserved for the successor⁹; and another minor, Louis of Anjou, the closest relative on the female line. This reflected the divisions in the royal house, the aversions generated by the former's public management and the French orientation choosing the latter would mean.¹⁰ Faced with this situation, the parliament of Catalonia met

without any higher reference than God—"The parliament of the Principality of Catalonia by the grace of Our Lord God here met with good union and harmony by the valid act of parliament"¹¹—and, given the incapacity to seek a solution like that achieved in 1396, opted for the decision to be delegated to a "congregatione generali regnorum et terrarum dicte corone regie".¹² In the previous century, the parliaments had sanctioned the succession in France in 1328¹³ and in Portugal in 1383,¹⁴ but to look for a similar kind of political representativeness in the Crown of Aragon entailed that the parliaments of Aragon, Valencia and Catalonia had to meet, and designate the representatives for a general congregation. However, the attempt to carry out this plan led to a tense interregnum, which benefitted another candidate, Ferdinand of Trastámara, coregent with King John II of Castile. Ferdinand was the candidate who played his cards better, combining armed force, diplomatic strategy and political power play, both inside and outside Castile. This was the failure of the Catalan model of resolution, thus showing that the Catalans, with their capital in Barcelona, did not carry as much weight in the Crown as a whole as they thought. After 1411, the Aragonese model of resolution was imposed.¹⁵ Following the advice of Benedict XIII, the Avignon pope resident in the Crown of Aragon and very interventionist in political affairs, who favoured the Castilian candidate,¹⁶ a solution *ad modum conclavis papalis* was sought,¹⁷ in other words with a meeting involving a small number of delegates. So, the representatives of Aragon proposed a list of nine people, all close to the pope, ensuring that there were three from each territory (Aragon, Valencia, Catalonia), while the Castilians troops exerted strong armed pressure.¹⁸ The acceptance of the Aragonese list by the three parliaments converted the nine into delegates for their respective territories. With this legitimacy, they met in Caspe and, in June 1412, proclaimed Ferdinand of Trastámara as the new king.¹⁹ He made efforts to incorporate the characteristic traits of the Crown of Aragon, both justificative²⁰ and institutional²¹ and even of identity—like the Catalan language, which came to be used formally in writing within the family.²² However, what this highlighted was that the estates had demonstrated the power to choose the king—"helegir rey d'Aragó"²³—as the chronicler Pere Tomic clearly stated in 1448: "The eleventh King of Aragon and Count of Barcelona was chosen by the land".²⁴

The city of Barcelona worked to consolidate a preeminent position over this land (*terra*), in other words, of the country as a political entity facing the monarch.²⁵ However, this same position accentuated its internal social fractures. Pressure from the emerging bourgeois groups on the elite that controlled and held the municipal

government²⁶ led to ostensible tensions in Barcelona like those of 1425 and to small adjustments to the local representation, as in 1431.²⁷ In fact, these led to a much more important novelty: the progressive appearance of *gabelles*, or political parties. The clashes of 1437 showed that an alternative that aimed to dispute power with the dominant bourgeois oligarchy was being assembled. Against the dominant oligarchy, known as the *Biga*, the *Busca* appeared with a very specific political programme of renovation, which included measures like currency reform and protectionism.²⁸ These were aspects that reflected the weight the country's capital had and wanted to have, because their application affected the whole country and involved, one way or another, the general policy of the Crown. Precisely with the support of the general deputy, the *Busca* obtained power in Barcelona in 1453.²⁹ The opposition by the *Biga* was tense, thanks to the control of the General Deputation (the permanent delegation of the Parliament or Courts)³⁰ which allowed them to invoke the representativeness of the land.³¹ From this position, the *Biga* colluded with other urban oligarchies in Catalonia³² and worked to recover power in 1460 and, even more so, to take its revenge on the *Busca*. It was able to do so in 1462, on repressing the so-called Saint Matthew plot with death sentences against notable leaders of the *Busca*. This had the effect of ensuring power was in the hands of a patriciate radicalised around their own standpoints³³ and one that, sure of itself, would not hesitate to face up to the king. The Castilian writer Alonso de Palencia described them as so arrogant that they thought that, if God required advice, he would only be able to find it in Barcelona: "illam suam inter omnes horum seculorum prudentiores summi consilii arrogantiam stolidius ostentarunt, divulgantes imprudenter atque impie quod si Deus consilium egeret nusquam preterquam Barchinae id posset habere".³⁴

The fact that, throughout the Late Middle Ages, the usual investment of wealth was in property³⁵ contributed to building urban areas of influence that coincided with the investments of the urban elite.³⁶ This also greatly equated the different landowners, whether high bourgeoisie, high churchmen or barons and nobles. They were all concerned about the fall in income at the start of the fifteenth century for causes as diverse as variations in the price of grain and oscillations in parity of currency. Seeking to compensate for this situation, they all emphasised the demand for rights over the peasantry, beginning with the so-called *mals usos* (bad uses). That led to unrest in the countryside. In 1448, the king authorised the peasant unions and in 1450, he summoned the lords, who refused to attend because of the jurisdictional fragmentation. The conflicts over the taxes on the countryside were mixed with the king's manoeuvres for pre-eminence

over the mosaic of jurisdictions. So, in 1455, he dictated an interlocutory sentence derogating the *mals usos* until the lords made appeared before him.³⁷ With this sentence highlighted in 1457 and proclaimed in 1458, the leading lords no longer received these taxes.³⁸

All this was happening with a king, Alfonso the Magnanimous, far away. From 1432 the king was in Italy, and after the fall of Naples in 1442, he set up his court there.³⁹ Everyone immersed in the various Catalan tensions sent ambassadors to the Neapolitan court, while in Catalonia, the king was represented by deputies who changed with the ebb and flow of political disputes: Queen Mary⁴⁰ and Prince John, the king's brother.⁴¹ All these agents believed that this distance was not good for defusing the tensions, although it did contribute to Catalonia being treated as a unified political body. In 1454, before the parliament or Corts, Bishop Margarit commented on the seriousness of the king's distance for Catalonia and regretted that he had left the nation almost widowed due to his absence: "This almost widow nation of Catalonia believes that, according its natural fidelity, merits to receive good manners from your Majesty, as well as from any other lord".⁴²

On the death of Alfonso in Naples in 1458, his domains were divided up. His illegitimate son Ferrante received Naples and his brother John received the rest of the Crown of Aragon, where he had already acted as the king's deputy. So, he was well aware what he was faced with. In June 1461, the Catalan estates imposed the Capitulations of Vilafranca del Penedès on the king.⁴³ These established a model of pacts between the estates, who assumed the representation of the land, on one hand, and the sovereign on the other.⁴⁴ Indeed, the latter had to mould himself to an agreement that ostensibly limited his power to act. He even had to request permission from the representatives of the land to enter Catalonia.⁴⁵ In December of the same year, the estates created the Council of the Principality of Catalonia, which extended the representativeness and power of the General Deputation to act like a permanent delegation of the Parliament.⁴⁶

Simultaneously, sensing the growing weakness of the monarch, many lords increased their demands on the peasants in the north-east of Catalonia. At the start of 1462, there was a well-organised peasant rising, following the model of the popular militia,⁴⁷ with attacks on lords while also putting forward a wide range of reclamations.⁴⁸ In May of that year, the General Deputation published a project for agreement between lords and peasants that the latter rejected.⁴⁹ In July, King John II entered Catalonia, without permission from the representatives of the land. He argued that as the sovereign, he could

do so and even showed the endorsement of Pope Pius II to corroborate this.⁵⁰ The representatives of the land accused him of being in violation of the law by failing to comply with the terms of the concord of Vilafranca del Penedès. When he did not back down, he was dismissed, a decision he rejected. So, there was a confrontation between two ways to justify and legitimise the power according to its source, which lay either in the sovereign or the land and, thus, its representatives.⁵¹ This triggered an exhausting decade-long civil war.⁵² On one side, there was John II, convinced that the Crown was his by right⁵³ and on the other, the representatives of the land, who, in this condition, felt backed by the law to choose a king who had to limit himself to fulfilling his functions, a role that the historiography has equated with a kind of *condottiere*.⁵⁴ The candidate they selected was King Henry IV of Castile, but when he relinquished this in 1464, the next choice was Peter of Portugal. On the latter's death in 1466, the representatives of the land personally respected the wishes of the deceased, except where these affected the "land".⁵⁵ That is why they offered the Crown to the figure they believed most adequate, René of Anjou. There was a legitimate link to the Compromise of Caspe: the latter two were descendants of the two great losers in the selection of the king in 1412. The war ended in 1472 with the victory of John, who negotiated the surrender of Barcelona, with the result that the political structure and model of the Crown of Aragon was respected.⁵⁶

This long sequence of events illustrates a fifteenth century with a great deal of political and social strife, where there was a wide margin for violent expression. In that context, capital punishment could be presented as an extreme show of the alleged legality that it was wished to impose or as a supreme demonstration of the power it was intended to display. In all cases, it entailed claiming a legal framework in which to act. In fact, the death penalty implied the existence of a sentence and so, a supposed legitimacy in applying death to an opponent, even if this was for political reasons.

Figure 17.1 Depiction of the peasant hung by order of the royal deputy without procedural guarantees on the 23rd October 1456 according to the representation and the explanation in the diary of the notari Jaume Safont

Figure 17.2 Depiction of the peasant hung by order of the royal deputy without procedural guarantees on the 23rd of October 1456 according the representation and the explanation in the diary of the General Deputation (ACA, Generalitat, Escrivania, Dietaris 6/4, f. 31r). It is exactly the same event represented in image 17.1, which makes sense because the notary Jaume Safont was responsible for both books serving the General Diputation. It is clear, in any case, that the portrayals were

always symbolic, because despite depicting the same event, comparing the executed man and the elements of the gallows, the two images differ.

In these serious circumstances, there was, in first place, a popular perception of living in an exceptional epoch because there was no memory of times when the death penalty was applied in such a general and ominous way. In 1456, the notary Jaume Safont echoed the fact that the highest authority in the country, the royal deputy, had condemned a peasant to death in Terrassa for putting up very serious resistance—“accused of certain resistance”⁵⁷—on a holiday, and that the sentence had been carried out immediately, so the accused had had no trial or defence. That led Safont to comment that this would not have happened in the past rather he would have enjoyed a good trial and the right to defence, taking the needed time: in other times this did not happen but he would receive his trial in order, taking his defence and finally he would be sentenced according to his merits or demerits, and always in a legal day and never on a holiday (see [Figures 17.1](#) and [17.2](#)).⁵⁸

Later, in 1468, in the midst of the civil war, the royal council of Barcelona condemned Francesc Sescorts, a merchant who only the previous year had been part of the municipal council, to death together with the prestigious jurist Bernat Estupinyà, accused of conspiring in favour of the other side. They were quickly strangled. On recording the events, the ledger of the General Deputation mentioned their exceptional nature, because no jurist had met such a bad death as this in a century: “and this was the first jurist for one hundred years who was sentenced to die through a bad death in Barcelona”.⁵⁹

This greater presence of the death penalty in everyday aspects like political debate was passed on to the people with surprising ease. They came to wish, shamelessly and fully convinced, for the members of the opposing party to be executed cruelly, an urge that was manifested publically. In Barcelona in 1457, under the government of the *Busca*, the notary Jaume Safont, echoed the serious disturbances in Majorca,⁶⁰ that he summarised as an aggression by the little people against the great—“the social minor people in said city and in the rest of the kingdom against the honorable citizens and big people of the said city”⁶¹—and not only was he happy that their leader had been quartered (“Lo Tort Ballester’ was quartered in the city of Majorca”⁶²), but even displaying his sympathies for the *Biga* party, he asked God explicitly to have the members of the *Busca* who governed Barcelona suffer the same misfortune: “It pleases our Lord God that, in brief, we will see a similar sentence applied to those traitors who in this city of Barcelona have promoted the men who are vulgarly called

the men of the Busca”.⁶³

Figure 17.3 Instruments for quartering a man in Majorca in 1457 imagined by the notary Safont when explaining the news in his Diary (BC ms. 978, f. 52r).

Figure 17.4 Depiction of the instruments for the same execution in Majorca in 1457 by quartering kept in the Diary of the General Deputation (ACA, Generalitat, Escrivania, Dietaris 6/4, f. 37r)

It is no surprise then that when the *Biga* recovered their power, the level of tension led to death sentences against members of the *Busca*, with the full acceptance of part of the population. Specifically, in May 1462, continuing with the repression begun after the Saint Matthew plot,⁶⁴ leading members of the *Busca* were sentenced to death by strangling: “by sentence they were strangled, for when they had been inciters and conspirators of certain conspiracy against this city”.⁶⁵ The legal forms had been maintained, and death sentences had been decreed and applied very rapidly. However, the reasons and benefits were clearly political, because from then on, the more radical sectors of the patriciate held unchallenged power. Personal attitudes to the death penalty also depended on peoples’ political positions. The ledger of the notary Safont included mocking drawings of people belonging to the opposing party being executed, such as “Miquel de Bellafilla, citizen of Barcelona who was accused of much nastiness done by him against the land to benefit King John (II)” (see [Figure 17.5](#)).⁶⁶

Figure 17.5 Caricature of the display of the Barcelonan citizen, Miquel de Bellafilla (or Bellafia), in the street after having been strangled in 1473 in the context of the civil war, in the diary of the notary Jaume Safont (BC ms. 978, fol. 100r).

The death penalty thus became a political tool that made it easy to eliminate members of the opposing party. However, beyond this use, in itself it achieved another political function of displaying power, showing that this was so strong that it could annul guarantees. By proceeding summarily against the above-mentioned peasant from Terrassa on a holiday in 1456, Prince John, as royal deputy, was displaying a power that placed him above legal guarantees. It is clear that his opponents could accuse him precisely of that. The General Deputation, controlled by the *Biga*, and very annoyed by the government of the *Busca* in Barcelona, registered the actions by the royal deputy (mentioned in his title as king of Navarre) as an abuse in its ledger and clearly recorded that this happened under the

government of the *Busca* (see [Figure 17.5](#)):

Saturday, 23, feast of the transfer of Saint Eulalia. That day, without trial, without defence and on a holy day, Guillem Herús, from the limits of Terrassa, was hung accused of certain resistance, about which, the accused interpreted that he could easily be freed in accordance with justice. The King of Navarre as general deputy of his majesty the king ordered him to be hung, and that happened in time of the men of the *Busca*.⁶⁷

However, when the members of the *Biga* who criticised the lack of guarantees for the accused in trials under the *Busca* regained power, they showed the same lack of respect for these guarantees. They did not hide this, but rather the opposite. So, part of their aims was to flaunt this power to act. In May 1462, the members of the *Busca* considered guilty were executed by strangulation in the prison, but were then taken out into the street to show the power to apply capital punishment and what could happen to those who thought and acted like the ones who were executed:

As soon as they had been strangled, they were taken from the said prison and placed in the middle of the Square of the King's Palace, in this way, they first laid a blanket on the ground, and over the said blanket both dead bodies were placed with cushions under their heads, having their heads towards the palace and the legs towards the Cabbage Square.⁶⁸

The procedures were accelerated and the guarantees diminished but the social forms were respected. This is seen very clearly in the executions of May 1462. Everything went fast and the executions were carried out inside the prison itself. However, even in these circumstances, social distinctions were respected, as can be seen in the manner of inflicting capital punishment, strangling eminent citizens and merchants, but hanging a cobbler:

Friday, the 26th of May 1462, at 9 hours, before midday, Bertran Torró and Joan Benet de Mijavila, citizens, and Martí Solzina, merchant, now officer for the market in Barcelona, were strangled in the said prison, accused of having known, advised, allowed and participated in the said plot; and after they were strangled, then Jaume Perdigó, cobbler, accused of the same crime, was hung from the barred window, which is over the arch of the said prison.⁶⁹

The public exhibition of the executed was also adapted. Despite being political enemies, they were not left permanently on show, but only for a few hours. This made the punishment they were considered to have earned evident, but only until nightfall, so they could be buried:

As soon as the said Bertran Torró, Joan Benet de Mijavila and Martí Solzina were brought from the said prison, the dead were placed in

the said Palace Square in this way: that Bertran Torró, dressed with a lined smock of white leather and with a dark tunic under, lay on the right, towards the cathedral, and Mijavila, dressed in another dark tunic, was in the middle and Olzina on the left, which was towards the chapel of the palace, dressed similarly with another dark tunic, each with cushions under their heads and with a small piece of candle that was burning in an iron candle stick. And thus, when night fell, all the mentioned were buried, that is, each in his grave.⁷⁰

This was a display of the terror with which it was considered society should be ruled. Precisely, the display of the gallows, often with bodies hanging on them, continued to be the first option with which to deal with the social tensions. King John II himself demonstrated this. With the escalating peasant revolt in north-east Catalonia in early 1462, his younger son as his deputy and his wife as the latter's tutor went to the area and had two peasants hung:

At that time, some 'remensa' peasants rose up in the region of Empordà [...] and when the Queen and the Prince arrived to the city of Girona they acted against the said peasant, and ordered two of them hung who were found guilty.⁷¹

However, everything was negotiable in case of political expediency. On the outbreak of the civil war the king accepted the support of the more radical peasants, although he was careful not to offer anything significant in return to avoid losing the support of the noble side.⁷²

The terror inherent in the death penalty was accentuated during the civil war between July 1462 and October 1472. The suspicion of being in favour of the other side led notable people in Barcelona to fast trials that ended with a death sentence, duly applied by strangling, under the accusation of being against the land (*contra la terra*) or, synonymously, against the Principality of Catalonia (*contra el Principat de Catalunya*). That is why the citizen Miquel de Bellafilla was strangled in February 1463: "Miquel de Bellafilla, citizen of Barcelona, was strangled and placed dead in the Square of the King, as he was said to have acted against the principality of Catalonia in favour of the king".⁷³ Like other citizens executed, they would be executed and displayed according to their social status:

Monday, in the early morning that counted 14th of February 1463, Miquel de Bellafia, citizen of Barcelona, was placed in the Square of the Palace of the King, on a blanket, dead and strangled, who was found guilty of many wicked deeds he did against the land in favour of King John. And that same day, after lunch, for the same Pere Dies, weaver, convert, was hung by the neck and he was hung in the Wheat Square.⁷⁴

Under these circumstances, the death penalty was used in Barcelona for those accused of acting in favour of the dethroned king—"preach

many things in favour of King John”—, who were branded enemies of the country: “many people little attentive to the good and peacefulness of this Principality”.⁷⁵ Formally all the institutions continued working with the guaranteed legal mechanisms, beginning with the normal working of the royal court presided over by the vice-chancellor.⁷⁶ However, it is evident that this adapted to the state of conflict. The actions of the vice-chancellor accompanied by various reputable jurists from the royal council (of the king or his deputy) led to very fast trials, with few guarantees and that easily led to the death penalty based on many suspicions and little evidence (see [Figure 17.6](#)).⁷⁷ For example, all these elements appear in May 1468 in the swiftness with which the court of the king’s general deputy and René’s eldest son condemned the former rulers of Barcelona who were pointed out as supporters of the opposing king in the civil war, John II, who is mentioned using his other royal title, that of Navarre. They quickly went from the accusation to the sentence and the application of the capital punishment, as well as the seizure of their assets: Wednesday the 11th. That day the lord eldest son of the king or his vice-chancellor on behalf of him, in full Audience, condemned Francesc Sescorts, merchant, who the previous year was a councillor of Barcelona, to lose his life and his goods, and Sir Bernat Estopinyà, accused of having plotted in the city of Barcelona against said eldest son and his government in favour of King John, king of Navarre. And, in fact, after lunch on that same day, they were taken from the prison and taken on foot to outside the Boqueria gate, under the gallows, where they were strangled.⁷⁸

Figure 17.6 Illustration of an instrument for quartering those accused of trying to help the entry of King John II into Barcelona in 1467, in the context of the civil war, by copying a key, also shown, with which they wanted to open a gate in the wall (BC ms. 978, fol. 115r).

The desire to display power and teach the people a lesson meant executions in prominent public places. In that same case, the accused were strangled, but not only in public but also in a very common and busy place in Barcelona, beside the gallows of the Bocaria. Sometimes the accused were moved precisely to emphasise this central element of the punishment. This was done to those considered to have committed high treason in the final months of the civil war. Guerau de Sarrià, a gentleman who had entrenched himself in the church of Sarrià—“s’ere enfortit”—in favour of King John II, and Pere Vermell, a farmer—“pagès del Prat de Llobregat”—who had contributed by handing the village to the opposite faction—“he had betrayed the town of Sant Boi and had led it into the hands of the enemies of the king John”,⁷⁹ were

torn to pieces in May 1472. Emblematic and central places were selected, so that “the said Guerau de Sarrià was quartered in the Square of the Palace of his majesty the king in Barcelona”.⁸⁰

The message became the most important. To encourage popular participation, they resorted to making the death penalty more expressive and emotive through the theatricalisation of the event and the incorporation of effigies.⁸¹ The use of the punishment in effigy was increased especially when, in its final phase, the Barcelonan side compensated for the realisation of their imminent defeat with a spectacular rise in suspicion and capital punishment.⁸² There were capital sentences, pronounced by the king’s deputy, with hardly any judicial process or procedural guarantees. The aim of reinforcing one’s own side accentuated these actions and the subsequent capital punishment, even in the absence of the accused. In this setting, the sentences in effigy of prominent people from the other faction meant the ability to make as accurate portraits as possible and all the symbology of using these images as political propaganda to involve the population. That is why the effigies were dragged around the streets and later hung upside down in the jurisdictional court and, finally, distributed around the city. This was done using portraits, painted on wood, to generate a permanent record of those persons who had to be pursued by the justice, in this case, for their political offences, with the aim that anyone who saw them would take them, dead or alive. Beyond these condemnations in effigy, the physical elimination of the accused was strongly desired, to the point that a high reward was offered for whoever presented their heads. The list of these people included leading members of the opposite side. In some cases, these were men in very important official positions, like the general bailiff of Catalonia, and in others, they were people very famous for their long careers as a parliamentarians or influential writers like Bishop Joan Margarit of Girona.⁸³

At this point, it is clear that the death penalty was no longer handed down as a sentence with elaborate juridical reasoning for a specific offence but derived more from the position adopted, an exclusively political attitude. The effigy was a symbol and a lure, to the point that money was offered to those who captured those sentenced and brought them, dead or alive. The format of the death penalty was used, but the legal references and guarantees had been lost. The political argument ended up dominating and this guided the death sentences. Thus, during a civil war, to condemn someone to death for treason, they no longer needed to have committed a specific act, but only to have taken up a position on the other side:

Saturday, the 23rd of November 1471, three hours past midday, a public proclamation was made with trumpets and with drums by the

lord King deputy, which was first made public on the steps of the main royal palace in Barcelona, and after in the other squares and public places in the said city, containing in effect how the said lord deputy called for disloyal people and for traitors, down to the third or fourth generation, Father Joan Sarriera, General bailiff of Catalonia, Bertran d'Armendaris, Navarrese, and Pere Joan Ferrer, knight, living in Barcelona, and ordered the images and semblances of these be hung in the court of the vicar until the below mentioned persons can be detained in person and executed as public traitors, promising with the said proclamation to any person who brings alive and places in the power of the said lord deputy some of the following, Father Joan Margarit, bishop of Girona, Father Bernat Margarit, brother of said bishop, Father Jaume Alamany, Bernat de Senesterra, Palou d'Arenys and Sir Jaume Terarnau, convert, that is, for each of the below mentioned two thousand florins, and if they are killed and they bring the head, there will be one thousand florins for each head, and if they kill them and bring the head, there will be one thousand florins for each head, and if they bring Ribot de la Vallòria, there will be 500 florins, and if they bring his head, there will be 250. The lord King's deputy will immediately give general remission to any person who puts these or any of those in the hands and power of the lordship dead or alive, even if he were enemy or rebel, ordering further on the lord deputy these to be painted on posts, and placed as traitors in four parts of the city, that is, in the *Sant Jaume* (Saint James) Square, in the market, at the *Portal Nou* (New Gate) and the *Portal de Sant Antoni* (Saint Anthony Gate) with the threat that under penalty of death nobody dare damage, scratch or dirty any of the said posts.⁸⁴

The public act of proclamation of those condemned to death incorporated all the elements of theatricalisation so as to include the population: the officials encouraged the participation of everyone by calling out the crime of the accused—treason—while wishing them dead. Everybody would share the sentiments of rejection that it was supposed such characters, accused of such a heinous crime, inspired: And after this proclamation was made, straight away they put on horseback in the main royal palace Father Joan Ramon Ponç, Hug Copons, knight, and Father Antoni de Vilatorta, clerks of the said lord, with more than 300 youths who went shouting out: 'Death to the traitors! Death to the traitors!'; and straight after, there came three pack animals, each of which dragged a body by the feet made of sheepskin, full of down, that carried a large leather bag around its neck made in the image and likeness, that is, the first of Father Joan Sarriera, the second of Bertran d'Armendaris, and the third with Pere Joan Ferrer; and each of these images carried dragging on the ground a flag of four parts with the arms of each of them, and thus dragged

they were paraded all around the city.⁸⁵

This way, the exercise of power sought the complicity of the population and drew them through a theatrical simulation, in which convicts travelled the streets and were subjected to the wrath of the people, because everyone shared the indignation about their heinous acts. However, this was all an enactment through a recreation with figures that evoked the reality as far as possible. This was the same as in funerals of notable persons,⁸⁶ especially kings: the ceremony was apparently done with the “cors present”, with the coffin—“atahut”—presiding over the funerary monument that travelled the streets in a procession and would be placed in the catafalque—“sobre lo dit monument e en lo dit cadaffalch”—in the main temple, surrounded by very showy decorations and ceremony, but everything was a simulation, an enactment: the body of the deceased was represented.⁸⁷ While the identification in funerals depended on symbols according to a code for kings, queens, bishops or nobles,⁸⁸ what was sought here was credibility—“a ymage e semblança”—, which continues to refer to the search for veracity in depictions of all kinds, and that, increasingly since the previous century, also sought an approximation to nature and to the traits of the faces and particular physiognomies.⁸⁹ The ceremony was a theatricalisation of the sentiments.⁹⁰ That is why a leading role was given to the young, which, as we have seen, also happened with the most notable executions. In this case it was explicitly stated that the ceremony was led by three hundred *fadrins* (teenagers). The young were believed to be dominated by emotion rather than reason, so they were therefore the ideal group to visualise the emotions of the populace without restraint or moderation.⁹¹ As with the funerals, the authorities chose the themes and aspects with which these should be expressed, and in doing so, made decisions in the name of the group. They used representativeness to express what corresponded with the interests of the ruling group but which was explained as being shared by everyone. Through a ceremony which focussed on expressing emotion and effectively became a form of festival, they achieved the support of the populace.⁹²

Political control was imposed over such basic features of medieval society as the structure of the estates. As we have seen, in the context of civil war, all the leading opposition figures, whether citizens, barons or clergymen, were sentenced to death. From a medieval juridical point of view, this is difficult to understand because, as is clear, the clergy enjoyed their own courts. It was not just well-known churchmen such as Bishop Margarit who were condemned to death in effigy. In March 1472, the royal court of the king's deputy, René, sentenced to death a canon of the military order of the Holy Sepulchre, based in the convent of Saint Anne in Barcelona. According

to contemporary practice, the sentence, death by strangulation, was carried out immediately in the royal vicar's prison, followed by the usual public display: "Last week in the prison of the vicar, Father Joan Ferrer canon of *Santa Anna* (Saint Anne), was strangled, and after he had been strangled, they put him in the Square of the King".⁹³ However, the reaction of the ecclesiastical authorities was rapid. This response followed the usual behaviour in these cases and consisted of excommunicating those responsible for the sentence, beginning with the vice-chancellor: "the interdiction against the vice-chancellor, against micer Mateu Cases, micer Baltasar Savila and micer Francesc Mallet and others of the council of the said deputy".⁹⁴ Another sign of the times was that this spiritual condemnation provoked a strong response from the secular powers through an economic boycott of the cathedral and with all the remaining churchmen responsible for the excommunication being immediately expelled from the city under threat of death:

Monday, the 16th. Public announcement. That day a public announcement was made in the city of Barcelona with two pairs of trumpets on behalf of the King's deputy against the ecclesiastical official, the ecclesiastical vicar and the canons of the See of Barcelona, because in the last days they proclaimed the interdiction [...] This announcement was public and based on arguments, with many offensive, very harsh and ignominious words against the mentioned clergymen. The contents included that from hereafter no-one should pay *cens*, *censals*, *morabatins* or any other kind of income contracted to the said churchmen, and also that any contract involving goods will stopped, all under the punishment of five hundred florins and any other penalties, according to the will of the King's deputy. And, beyond this announcement, the lord King's deputy ordered to say through the special bailiff micer Copons to the canons micer Figueres, and micer Vila, and micer Payró that they have two hours, counting immediately, to leave Barcelona, under the threat of losing their lives and assets.⁹⁵

The aim was to unite the society while stigmatising those who were the subject of political confrontation. These same effects could be achieved through the harsh punishment of prominent individuals for crimes which were considered to be especially repugnant in the contemporary mentality. This therefore made it easier to condemn such individuals to death. As we have seen, crimes like male homosexuality until then meant capital punishment especially for members of the lowest levels of society. In a very different way, in 1469, over the period of only one year, the prominent Joan Llobera went from influential third councillor of the city to being under suspicion during the civil war.⁹⁶ He ended up accused of sodomy, for

which he was killed together with a hermit accused of the same sin, with the only grace of being strangled before being placed on the fire: Monday the 28th of May 1464, Joan de Llobera, citizen of said city, who last year had been a councillor of Barcelona, and an immoral hermit called Bartomeu Polo, given that they were sodomites, were burnt in the Square of the Rambla in Barcelona. It is true that before they were put in the fire, they were throttled.⁹⁷

Only a few months later, in July of the same year, an identical argument was applied to Gaspar Rajadell, who together with a scribe, Joan Sorí, was drowned before being thrown on the pyre. This, as we have seen, was the usual way for the royal council to punish sodomy at the end of the fifteenth century (see [Figure 12.2](#)):

Saturday, the 21st. That day Gaspar Rajadell, citizen of said city, and Joan Sori, scribe, were burnt to death in the Rambla of the present city of Barcelona, guilty of the sin of sodomy, but before the fire killed them they were drowned in a wine bucket full of water.⁹⁸

The image of these high status citizens was greatly damaged by being condemned to death for a crime that generated such great popular contempt. If it were not for the political context, these condemnations would surely not have come about. It is also true that in the context of civil war, Peter, the king chosen by the estates, involved himself very personally in these condemnations even travelling specifically to Barcelona, despite the ongoing fighting, so as to pronounce the death sentences. Bearing in mind that King Peter took his mission very seriously—he was the only one of the three kings chosen by the estates who travelled to Catalonia to take up his position personally and not through deputies—and that he was concerned about consolidating his position before John II, who he was fighting against, it can be appreciated that he aimed to strengthen his importance and popularity through a determined policy of Christian morality. He initiated specific measures against blasphemy, adultery and the lack of respect for celibacy. Here he would include an offensive against male homosexuality,⁹⁹ thus participating in the popular fear of God's wrath for tolerance of those who went against his natural design.¹⁰⁰

Figure 17.7 Gallows depicted to illustrate information about the hanging on 26th March 1472 of one of the three Deputies of the General Deputation, over the toponym 'Roses', the place where the execution was done, within the events of the Civil War. (BC, ms. 978, f. 124v)

The ease with which death sentences were meted out, the loss of procedural guarantees, and even the acceptance of capital punishment now not only to reconcile society with a God who was angered but

also for political reasons, were symptoms of social attitudes that became more marked with the rising tensions that spilled over into the long civil war (see [Figure 17.7](#)). Once the war had finished and society had recovered an apparent normality,¹⁰¹ it could be asked whether the attitudes towards capital punishment would return to a more balanced approach with guarantees. The response, however, is that the monarchy had incorporated the rapid application of capital punishment into its working, and this fate also befell urban personalities. This can be appreciated in John II and his son and heir, Ferdinand II, after succeeding him in 1479:

Wednesday, the 13th of February of the year 1481, his majesty the king had the throat cut, between the gate of the Market and the house of the General, of misser Baltasar Çavila, jurist, who had been one of the judges of the court, guilty of many injustices and excesses he had done to many.¹⁰²

Very rapid trials with few guarantees continued to be held, under orders from he who invoked sovereign power. At that time, the circumstances had begun to change. Firstly, King Ferdinand II of Aragon was at the same time Ferdinand V of Castile. In line with the medieval model, this did not alter the respective institutions but did lead to a new Hispanic situation,¹⁰³ with the sovereign and his court usually absent and the strengthening of the monarch's power thanks to receiving both powers¹⁰⁴—including prophecies¹⁰⁵—and the resources available for the sovereign of Castile.¹⁰⁶ At that time, authors like Pere Belluga contributed legal arguments to reinforce the sovereign's position in the pact with the estates,¹⁰⁷ while, at the same time, assuming the same model of pacted power, leading jurists propped up the structure of Catalan constitutionalism.¹⁰⁸ Thus, the medieval legacy of the Crown of Aragon, and especially from Catalonia, led to a specific way¹⁰⁹ within the European tensions at the start of the modern period due to the transformation of the medieval models of managing power towards more centralised and absolutist forms.¹¹⁰ The death penalty retained a central role, because it highlighted the seriousness of the crime to justify the actions of the authorities but, notably, because at the same time it continued to reflect wider significance. Certainly, gallows continued to be scattered across the landscape until the end of the Ancient Regime; the holders of jurisdiction would pronounce death sentences to display their power (“here there are many who have places and castles where he who is there in the name of the king cannot act” as the Florentine ambassador Francesco Guicciardini stated on seeing Catalonia in the sixteenth century)¹¹¹; the king attempted to strengthen his full powers over people and property, and in all the cases complicity was invoked.

The death penalty thus ended the Middle Ages reinforced as an

intersection between power and population, bonded through the discourses of the justificative ideology and the invocation of emotive adhesion.

Notes

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- 9 Flocel Sabaté, "La Governació al Principat de Catalunya i al comtats de Rosselló i Cerdanya", *Anales de la Universidad de Alicante. Historia Medieval*, 12 (1999), pp. 25-27.
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- 36 Flocel Sabaté, “Els eixos articuladors del territori medieval català”, *L’estructura territorial de Catalunya. Els eixos articuladors de l’espai*, Flocel Sabaté, ed., L’Avenç, Barcelona, 2001, pp. 61–68.

- 37 Flocel Sabaté, “Conflictes agraris i guerra civil a la Catalunya baixmedieval. Realitat i ficció historiogràfica”, *Miscel·lània Ernest Lluch i Martín*, Ferriol Soria, Jordi Ferrer, eds., Fundació Ernest Lluch, Vilassar de Mar, 2007, vol. 2, pp. 404–405.
- 38 Rosa Lluch, *Els remences. La senyoria de l'Almoina de Girona als segles XIV i XV*, Universitat de Girona, Girona, 2005, pp. 397–407.
- 39 Alan Ryder, *Alfonso el Magnánimo, rey de Aragón, Nápoles y Sicilia*, Edicions Alfons el Magnànim, Valencia, 1992, pp. 221–527.
- 40 Theresa Earenfight, *The King's Other Body. María of Castile and the Crown of Aragon*, University of Pennsylvania Press, Philadelphia, 2010, pp. 41–101.
- 41 Jaume Vicens Vives, *Juan II de Aragón (1398–1479): monarquía y revolución en la España del siglo XV*, Paul H. Freedman, Josep M. Muñoz, eds., Urgoiti editores, Pamplona, 2003, pp. 171–188 (first edition: Barcelona, 1953).
- 42 “Creu, senyor, aquesta quasi vídua nació de Catalunya que per la sua innada fidelitat meresca de vostra majestat e de tot altre senyor ésser ben tractada”. Ricard Albert, Joan Gassiot, eds., *Parlaments a les Corts catalanes*, Els nostres classics, Barcelona, 1928, pp. 211–212.
- 43 Imma Muxella, “Joan II, Lluís XI i els Comtats: una jugada a tres bandes”, *Les fronteres catalanes i el Tractat dels Pirineus*, Àngel Casals, ed., Galerada, Cabrera de Mar, 2009, pp. 100–101.
- 44 François Foronda, “Emoción, contrato y constitución. Aproximación a los intentos (pre)constitucionales en la Europa de los años 1460 (Sentencia de Medina del Campo, Concordia de Vilafranca del Penedès y Tratado de Saint-Maur-des-Fossés)”, *Por política, terror social*, Flocel Sabaté, ed., Pagès editors, Lleida, 2013, pp. 211–219.
- 45 Foronda, “Emoción, contrato y constitución”, pp. 212–219.
- 46 Flocel Sabaté, “Catalunya medieval”, *Història de Catalunya*, Albert Balcells, L'esfera dels Llibres, Barcelona, 2004, p. 304.
- 47 Flocel Sabaté, *El sometent a la Catalunya medieval*, Rafael Dalmau editor, Barcelona, 2007, pp. 37–109.
- 48 Josep Fernández Trabal, “El conflicte remença a la Catalunya del segle XV (1388/1486)”, *Afers*, 42/43 (2002), pp. 615–617.
- 49 Jaume Vicens Vives, *Història de los Remensas (en el siglo XV)*, Ediciones Vicens-Vives, Barcelona, 1978, pp. 90–92.
- 50 Josep Maria Pou, “Relacions del Papa Pius II amb Joan II d'Aragó i els catalans”, *Homenatge a Antoni Rubió i Lluch. Miscel·lània d'Estudis literaris, històrics i lingüístics*, Imprenta Atenas A. G., Barcelona, 1936, vol. 2, pp. 379–380.
- 51 Flocel Sabaté, “El poder soberano en la Cataluña bajomedieval: definición y ruptura”, *Coups d'état à la fin du Moyen Âge? Aux fondements du pouvoir politique en Europe occidentale*, François Foronda, Jean-Philippe Genet, José Manuel Nieto Soria, eds., Casa de Velázquez, Madrid, 2005, pp. 509–515.
- 52 Alan Ryder, *The Wreck of Catalonia. Civil War in the Fifteenth Century*, Oxford University Press, Oxford, 2007, pp. 109–225.
- 53 Vicens Vives, *Juan II de Aragón*, pp. 189–386.
- 54 Jaume Vicens Vives, *Els Trastàmars (segle XV)*, Editorial Vicens Vives, Barcelona, 1988, p. 179.
- 55 Andreu Balaguer, *Don Pedro, el Condestable de Portugal, considerado como escritor, erudito y anticuario (1429–1466)*. Estudio Histórico-bibliográfico, Imprenta de Vicente Dorcha, Girona, 1881, p. 53; Jesús Ernest Martínez-Ferrando, *Pere de Portugal, “rei dels catalans” vist a través dels registres de la seva cancelleria*, Institut d'Estudis Catalans, Barcelona, 1936, p. 123.
- 56 Flocel Sabaté, “Pedralbes, capitulació”, *Enciclopèdia de Barcelona*, Ramon

- 57 “delat de certa resistència”. Jaume Safont, *Dietari o Llibre de jornades (1411–1484)*, Josep Maria Sans Travé, ed., Fundació Noguera, Barcelona, 1992, p. 95.
- 58 “la qual cosa en altre temps no’s fora comportada, mas ordonadament li hagueren fet son procés e-l agüeren lexat defensar e après agüeren-lo sentenciat segons sons mèrits o demèrits meresqueren, e en die jurídic e no pas feriat”. Safont, *Dietari o Llibre de jornades*, p. 95.
- 59 “e aquest fonch lo primer jurista qui de C anys ençà sie sentenciat morir a mala mort en Barchinona”. Josep Maria Sans i Travé, ed., *Dietaris de la Generalitat de Catalunya*, Departament de Presidència de la Generalitat de Catalunya, Barcelona, 1994, vol. 1, p. 192.
- 60 José María Quadrado, *Forenses y Ciudadanos*, Govern Balear—Miquel Font editor, Palma of Majorca 1986, pp. 95–288 (first edition: Palma of Majorca, 1847).
- 61 “los pobles manuts axí de la dita ciutat com encara de la part forana de tot lo regne contra los ciutadans honrats e gent grossa de la dita ciutat”. Safont, *Dietari o Llibre de jornades*, p. 96.
- 62 “fonch scorterat en la ciutat de Mallorca ‘lo Tort Ballaster’”. Safont, *Dietari o Llibre de jornades*, p. 96.
- 63 “plàcia nostre Senyor Déu que, en breu, vejам fer semblant sentència d’aquells traïdors qui en aquesta ciutat de Barchinona han sucitats los hòmens qui huy se appellen vulgarment los hòmens de la Buscha”. Safont, *Dietari o Llibre de jornades*, p. 97.
- 64 Sabaté, “Sant Maties, complot de”, p. 112.
- 65 “per sentència foren ofegats, per quant eren stat incitadors e conspiradors de certa conspiració contra aquesta ciutat”. Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 171.
- 66 “Miquel de Bellafia ciutadà de Barchinona lo qual fonch inculpat de moltes malvestats que feya contra la terra en favor del Rey Johan”. BC ms. 978, f. 100r.
- 67 “Dissabte a XXIII, festa de la Transladació de Sancta Eulàlia. Aquest die fonch penjat, sens procés, sens defenses e en dia feriat, en Guillem Herús, del terme de Terraça, delat de certa resistència, de la qual per justícia ell s’entenia molt bé scusar. E manà’l penjar lo rey de Navarra com a lochtinent general del senyor rey; e açò fonch en temps dels hòmens de la Buscha”. Josep Maria Sans i Travé, dir., *Dietaris de la Generalitat de Catalunya*, Departament de Presidència de la Generalitat de Catalunya, Barcelona, 1994, vol. 1, p. 134.
- 68 “Tantost com los hagueren scanyats, trasqueren-los de la dita presó e posaren-los enmig de la plaça del Palau del Rey, en aquesta manera, que primer staneren una flaçada burella per terra, e sobra la dita flaçada foren posats abduy los dits corsos morts ab sengles coxins al cap, tenint los caps vers lo dit palau e les cames vers la plaça de les Cols”. Safont, *Dietari o Llibre de jornades*, p. 155.
- 69 “Divenres, a XXI de maig MCCCCLXII, a VIII^o hores ans de migjorn, foren scanyats dins de la dessús dita presó en Bertran Torró e Johan Benet de Mijavila, ciutadans, e en Martí Solzina, mercader, ara mostaçaf de Barchinona, delats de haver sabut, consellat, consentit e participat en la dita conjuració; e après que’ls agüeren scanyats, de continent penjaren per la finestra retxada, qui és sobra la volta de la dita presó, en Jacme Perdigó, sabater, delat d’açò mateix”. Safont, *Dietari o Llibre de jornades*, p. 155.
- 70 “Tantost trasqueren de la dita presó los dits Bertran Torró, Johan Benet de

Mijavila e Martí Solzina, e posaren los morts en la dita plaça del Palau en aquesta manera: que en Bertran Torró, vestit ab un gonell forat de pell blancha e ab una clotxa scura dessus, jeyhia a la part dreta, vers la Seu, e en Mijavila, vestit d'una altra clotxa scura, stava al mig e n'Olzina a la part esquerra, qui es vers la capella del palau, vestit per semblant ab una altra clotxa scura, ab sengles cuxins al cap e ab un patit tros de ciriet qui stava cremant en un canalobre de ferre. E puy, con vench en la nit, tots los dessus dits foren soterrats, ço és, quascú en sa sepultura". Safont, *Dietari o Llibre de jornades*, p. 155.

- 71 "aconteció, però en este medio tiempo levantarse algunos pageses de remença en las partes de Ampurdan (...) e llegados la reyna e príncipe a la ciutat de Gerona procedieron contra los dittos pageses, fizo enforçar dos d'ellos qui se fallavan culpables". David Guixeras, Agustín Rubio, "El parlamento de Juan II ante las cortes generales de Monzón 1469). Una pequeña crónica autobiográfica en lengua castellanoaragonesa", *Scripta. Revista internacional de Literatura i Cultura Medieval i Moderna*, 8 (2016), p. 66.
- 72 Santiago Sobrequés i Vidal, Jaume Sobrequès i Callicó, *La guerra civil catalana del segle XV*, Edicions 62, Barcelona, 1987, vol. 1, pp. 449–453.
- 73 "fonch scanyat e posat mort en la plaça del palau del Rey en Miquel de Bellafilla ciutadà de Barchinona, per tal com se diu venia contra lo principat de Catalunya en favor del rey Johan". Sans i Travé *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 176.
- 74 "Dilluns, en la matinada que comptàvem XIII de ffabrer MCCCCLXIII fonch posat en la plaça del Palau del Rey, sobre una flaçada, mort e scanyat, en Miquel de Bellafia, ciutadà de Barchinona, lo qual fonch inculpat de moltes malvestats que feya contra la terra a favor del rey Johan. E aquest mateix die, deprés dinar, per açò mateix fonch penjat per la gola en Pere Dies, lo perxer, convers, e penjaren-lo a la plaça del Blat". Safont, *Dietari o Llibre de les Jornades*, p. 179.
- 75 "prediquen moltes coses en favor del rey don Johan"; "moltes gents poch zelants lo bé e repos d'aquest Principat". Sobrequés i Vidal, Sobrequés i Callicó, *La guerra civil catalana del segle XV*, vol. 1, pp. 440–441.
- 76 Flocel Sabaté, "Corona de Aragón", pp. 357–360.
- 77 Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 207.
- 78 "Dimecres a XI. Aquest die lo senyor primogènit o son vici-canceller en persona sua, en plena Audiència, condemnà a perdre la vida e los béns a'n Francesch Çescorts, mercader, qui l'any propassat era stat conseller de Barchinona, e a misser Bernat Stupinyà, delats de haver feta certa conjuració en la ciutat de Barchinona contra lo dit senyor primogènit e son stat a favor del rey don Johan, rey de Navarra. E, de fet, lo deprés dinar de aquest mateix die foren trets de la presó e menats a peu fins defora lo portal de la Bocaria, dejús la forcha, on foren scanyats". Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 192.
- 79 "havia trahida la vila de Sent Boy e l'avía liurada en mans dels enemichs per lo rey Johan". Sans i Travé, *Dietaris de la Generalitat de Catalunya*, p. 208.
- 80 "scorterat lo dit Garau de Serrià en la plaça del palau del senyor rey, en Barchinona". Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 208.
- 81 Paul Friedland, *Seeing Justice Done. The Age of Spectacular Capital Punishment in France*. Oxford University Press, Oxford, 2012, pp. 90–91.
- 82 Vicens Vives, *Juan II de Aragón*, pp. 330–341.
- 83 Robert B. Tate, *Joan Margarit i Pau, cardenal i bisbe de Girona. La seva vida i les seves obres*, Curial, Barcelona, 1976.

84 “Dissabte, a XXXII de nohembre MCCCCLXXI, tres hores passat migjorn, fonch feta una crida pública ab trompes e ab tabals de part del senyor loctinent, la qual primer fonch publicada en les scales del palau reyal major de Barchinona, e après per les altres places e lochs públics de la dita ciutat, contenent en efecte com lo dit senyor loctinent publicava per bares e per traïdors, fins a la terça o quarta generació, mossèn Johan Ça-riera, batle general de Cathalunya, Bertran d’Armendaris, navarro, e en Pere Johan Ferrer, donzell, domiciliat en Barchinona, e manant les ymages e semblanses de aquells ésser penjades arravers a la cort del vaguer, fins les persones dels dessús dits personalment se puixen haver e exeutar com a traïdors públichs, promattent ab la dita crida a qualsevol persona qui aportarà viu e metrà en poder del dit senyor loctinent algú dels dessús dits, e encara mossèn Johan Margarit, bisbe de Gerona, mossèn Bernat Margarit, germà del dit bisbe, mossèn Jacme Alamany, en Bernat de Senesterra, en Palou d’Arenys e misser Jacme Teranau, convers, ço és, per quascú dels dessús dits dos mília florins, e si-ls maten e porten lo cap, hauran per quascun cap mil florins, e si porten en Ribot de la Vallòria, hauran D florins, e si porten lo cap, n’auran CCL, ffaent lo dit senyor loctinent, ara per llavors, remissió general a qualsevol persona qui aquells o algú de aquells mort o viu metrà en mans e poder de la senyoria, encara que fos enemich o rebetle, manant més avant lo dit senyor loctinent aquells ésser pintats ab posts, e posats com a traïdors en quatre parts de la ciutat, ço és, a la plaça de Sent Jacme, en Lotge, al portal Nou e al portal de Sent Anthoni, ab cominació que sots pena de la vida algú no gosàs damnar, raure o ensutzar alguna de les dites posts”. Safont, *Dietari o Llibre de les Jornades*, p. 226.

85 “E feta aquesta crida, tantost isqueren a cavall del palau major reyal mossèn Johan Ramon Ponç, n’Uch de Copons, donzell, e mossèn Anthoni de Vilatorta, algtzirs del dit senyor, ab més de CCC fadrins qui anaven primers cridant a grans crits: ‘Muyren los traïdors! Muyren los traïdors!’; e tantost après venien III bèsties de bast, quascuna de les quals rossegava pels peus un cors fet d’aluda, ambutit de borra, qui portava una gran bossa de cuyro al coll feta a ymage o semblança, ço és, la primera de mossèn Johan Ça-riera, la segona de Bertran d’Armendaris, e la terça d’en Pere Johan Ferrer; e quascuna d’aquestes ymages portaven rossegant per terra un panó de quatre ab les armes de quascú d’ells, e axí rossegant foren postats per tota la ciutat”. Safont, *Dietari o Llibre de les Jornades*, pp. 226–227.

86 Flocel Sabaté, *Cerimònies fúnebres i poder municipal a la Catalunya baixmedieval*, Rafael Dalmau editor, Barcelona, 2003, pp. 15–76.

87 Flocel Sabaté, *Lo senyor és mort! Actitud i cerimònies dels municipis catalans baix-medieval davant la mort del monarca*, Edicions de la Universitat de Lleida, Lleida, 1994, pp. 51–263.

88 Sabaté, *Cerimònies fúnebres*, p. 28.

89 Miguel Falomir, “Sobre los orígenes del retrato y la aparición del ‘pintor de corte’ en la España bajomedieval”, *Boletín de Arte*, 17 (1996), pp. 184–185.

90 Flocel Sabaté, *Vivir y sentir en la Edad Media. El mundo visto con ojos medievales*, Anaya, Madrid, 2011, pp. 75–80.

91 María del Carmen García Herrero, *Los jóvenes en la Baja Edad Media. Estudios y Testimonios*, Institución Fernando el Católico (Excma. Diputación de Zaragoza), Saragossa, 2018, p. 117.

92 Francesc Massip, “El rei i la festa. Del ritu a la propaganda”, *Revista de Catalunya*, 84 (1994), pp. 64–80.

93 “La setmana propassada havien scanyats, dins la presó del vaguer, mossèn Johan Ferrer, canonge de Sentana, e après que l’hagueren scanyat, posaren-lo

a la plaça del Rey”. Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 207.

- 94 “l’anatradit contra lo vici-canceller, contra misser Matheu Cases, misser Baltasar Çavila e misser Ffrancesch Mallet e altres del consell del dit senyor loctinent”. Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 207.
- 95 “Dilluns a XVI. Crida. Aquest die fonch feta crida pública ab dos parells de trompetes, de part del senyor loctinent, en la ciutat de Barchinona, contra l’oficial e vicaris ecclesiàstichs e contra los canonges del Capítol de la Seu de Barchinona qui en aquests dies proppassats havien lensat l’anatradit [...] E fonch aquesta crida causada e publicada ab moltes paraules fort injurioses e de gran càrrech e ab molts oprobis contra los dessus dits ecclesiàstichs, contanent en efecta que, d’ací avant, algú no pach censos, censals, morabatins o quasevulla altra manera de rendes que fassen als dessusdits o a algú d’aquells ne si tenen alguns béns mobles lurs o altres qualsevol coses, que aquelles los detenguen, sots pena de D florins e encara d’altra pena, a arbitre del senyor loctinent exequidora. E, ultra aquesta crida, lo dit senyor loctinent tramès a dir per mossèn Copons, algutzir, a mossèn Figueres, a mossèn Vila e a mossèn Payró, canonges, que dins spay de dues hores qui començassen tantost a córrer, se isquessen de Barchinona, sots pena de perdra la vida e los béns”. Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 207.
- 96 Carme Batlle, “Notas sobre la familia Llobera, mercaderes barceloneses del siglo XV”, *Anuario de Estudios Medievales*, 6 (1969), p. 548.
- 97 “Dilluns a XXVIII de maig MCCCCLXIII, foren cremats en la plaça de la Rambla de Barchinona en Johan de Lobera, ciutadà de la dita ciutat, qui l’any passat era stat conseller de Barchinona, e un tacany d’armità apellat Barthomeu Polo, per ço com eren sodomites. És veritat que, ans que’ls matessen al foch, los scanyaren”. Safont, *Dietari o Llibre de les Jornades*, p. 193.
- 98 “Dissabte, a XXI. Aquest die foren cremats a la Rambla de la present ciutat de Barchinona en Gaspar Rajadell, ciutadà de la dita ciutat, e en Johan Sori, scrivent, delats de peccat de sodomia, però ans que’ls mateasen al foch los alfagaren dins una portadora plena d’aygua”. Sans i Travé, *Dietaris de la Generalitat de Catalunya*, vol. 1, p. 181.
- 99 Jaume Riera i Sans, *Sodomites catalans. Història i vida (segles XIII–XVIII)*, Editorial Base, Barcelona, 2014, pp. 83–87.
- 100 Flocel Sabaté, “La sexualitat a l’època medieval”, *Sexualitat, història i antropologia*, Xavier Roigé, ed., Edicions de la Universitat de Lleida, 1996, pp. 49–50.
- 101 Manuel J. Peláez, *Catalunya després de la guerra civil del segle XV*, Curial, Barcelona, 1981, pp. 6–205.
- 102 “Dimecres, a XIII de ffabrer del any MCCCCLXXXI, lo senyor rey féu degollar, entre la porta de la Lotge e la casa del General, misser Baltasar Çavila, juriste, qui era stat hu dels jutges de cort, inculpat de moltes injustícies e sobergaries que havia fetes a molts”. Safont, *Dietari o Llibre de les Jornades*, p. 282.
- 103 Antoni Simón, *La Monarquía de los Reyes Católicos. Hacia un Estado hispánico plural*, Ediciones Temas de Hoy, Madrid, 1996, pp. 30–45.
- 104 Ramón Alba, *Acerca de algunos particularidades de las comunidades de Castilla tal vez relacionadas con el supuesto acaecer terreno del Milenio igualitario*, Editora Nacional, Madrid, 1975, pp. 28–35.
- 105 Alan Deyermond, “La ideología del Estado moderno en la literatura española del siglo XV”, *Realidades e imágenes del poder. España a fines de la Edad Media*, Ámbito, Valladolid, 1988, pp. 176–177.

- 106 Miguel Ángel Ladero, *Los Reyes Católicos: La Corona y la Unidad de España*, Asociación Francisco López de Gormara, Madrid, 1989, pp. 123–129.
- 107 Carlos López, “Teoría y praxis del contrato político nobiliario en el reino de Valencia. Del interregno a la conquista de Nápoles”, *Du contrat d’alliance au contrat politique. Cultures et sociétés politiques dans la péninsule Ibérique à la fin du Moyen Âge*, François Foronda, Ana Isabel Carrasco Manchado, eds., Université Toulouse II-Le Mirail, Toulouse, 2007, pp. 389–402.
- 108 Santiago Sobrequés, *Història de la producció del dret català fins al Decret de Nova Planta*, Col·legi Universitari de Girona, Girona, 1978, pp. 53–64.
- 109 Antoni Simon, *Els orígens ideològics de la revolució catalana de 1640*, Publicacions de l’Abadia de Montserrat, Barcelona 1999; Antoni Simon, *Construccions polítiques i identitats nacionals. Catalunya i els orígens de l’estat modern espanyol*, Publicacions de l’Abadia de Montserrat Barcelona, 2005.
- 110 Marie Gaille-Nikodimov, ed., *Le Gouvernement mixte. De l’idéal politique au monstre constitutionnel en Europe (XIII^e–XVII^e siècle)*, Publications de l’Université de Saint-Étienne, Saint-Étienne, 2005.
- 111 “molti vi sono che hanno luoghi e castelli dove chi è pel re non può cognoscere”. Francesco Guicciardini, *Diario del viaggio in Spagna*, Edizioni Studio Tesi, Pordenone, 1993, p. 20.

Conclusion

The death penalty took over the European Late Middle Ages. In the previous centuries, major crimes like murder, political rebellion or magnicide tended to be punished with fines and exile. From the twelfth century, with the backing of Roman law, the death penalty was incorporated into legal codes and, especially, into the political attitude and social acceptance. The great wealth of documentary sources in Catalonia has enabled us to delve into this evolution and thus appreciate the death penalty as a transversal axis with which to follow the experiences of the men and women of those times.

The Romanist legal framework gives the prince the power to take another human's life. Consequently, in a society like the medieval one, where power was shared between different holders at various levels, connected on various intersections with a high level of porosity and permeability, the death penalty became the best indicator to define where sovereignty was lay. The origins of Catalonia came from a number of counties which broke off from the Carolingian authority in the Early Middle Ages, followed by the spread of feudalism over the frontier, led to the predominance of the count of Barcelona—and king of Aragon from the mid twelfth century—on very weak foundations, lacking in jurisdiction and income from taxes. The territorial expansion and political challenges of the thirteenth and fourteenth centuries only accentuated the weakness of the monarch, who was obliged to gradually cede patrimony—with its jurisdictions and incomes—in exchange for financial help, and was unable to apply state taxation for his own benefit.

In these circumstances, the monarch introduced the death penalty as one of his strategies to consolidate his position and image. The fourteenth-century kings—Alfonso the Kind, Peter the Ceremonious, John I—had condemned people who had occupied high posts at the court to death. However, at the same time, unable to avoid the marked jurisdictional fragmentation, the same sovereigns had to respect the full powers of numerous nobles, barons, churchmen and even burghers over a good part of the country. Consequently, late-medieval Catalonia was a jurisdictional mosaic, which meant serious difficulties for the ordinary justice because of the impassability and lack of collaboration between jurisdictions. The death penalty being

the highest indicator of full jurisdictional capacity, the scaffolds raised at each change of jurisdiction converted Catalonia into a sinister forest of gallows.

These gallows were indicators of changes of jurisdiction, but were also aimed at transmitting an explicit message of fear. The authorities deliberately chose to build them in many places to *donar terror* (give fear) with the purpose of appeasing serious social tensions, like the assaults on the Jewish quarters in 1348–49 and 1391, preventing possible riots, as in Tortosa when the local government was unable to ensure the supply of grain to a population enduring severe hardship in 1376, or for intimidation in his political strategy, as the king did in Vic in 1366 or the governor general in Girona in 1437, threatening to hang the members of the municipal government in case of opposition. Everyone accepted that, at that time, infusing terror in the population was the ideal way to govern by repressing the social and political tensions. Assuming this line of argument, the death penalty penetrated into the legal codes of everyone who enjoyed a legislative capacity, like the lords with jurisdictional powers and into also municipal ordinances in the large cities.

The Aristotelian realism influenced Christianity during the Late Middle Ages, infusing great cohesion and security in the society, but also a high fear of a God who had dictated the world's social and natural order and who could become angry if society deviated from his dictates. Thus, divine wrath was perceived as a real danger, as seemed evident in the difficulties with crops or the various natural problems that damned the late-medieval societies. Consequently, the society had to show itself united in rejecting those who violated God's designs, like male homosexuals or heretics, and to try to maintain under control those like the Jews who were envisaged as deicides, obsessed with damning God.

A philosophical and theological endorsement of the death penalty was stated in the twelfth-century *Decretum* by Gratian and was especially the subject of careful reasoning by influential thirteenth-century scholars beginning with Thomas Aquinas. They all coincided about the necessity to preserve the common good above any private good. Thus, disruptive members of society had to be duly extirpated and sacrificed for the benefit of society as a whole.

Consequently, the death penalty could not be arbitrary but rather had to respond to the law duly based on Christian rules. Roman law contributed a formal framework in which to hold trials in a stable format with guarantees, with judges trained in law in the *Studium Generale*, before whom the two parties, the agent and the defendant, presented evidence, with a procurator fiscal, and an attorney general if necessary, all duly noted by the scribe, in a long procedure. In cases

that required torture, this was only accepted through an interlocutory sentence. It was a regulated and guaranteeist system, which would be progressively established over the popular courts in the larger towns and cities, in which the eminent citizens had acted according a tradition with fewer guarantees and more inclined towards physical penalisation. In any case, the judge enjoyed a wide range of options to graduate the punishment in function of the nature of the crime, the condition of the victim and category of the accused. Murder, counterfeiting the currency, fraudulent bankruptcy and sexual crimes (either attempted rape, male homosexuality or sexual relations between members of different religions) tended to lead to the death penalty, as did many robberies and also heresy. A wide range of crimes was gradually added in the second half of the fourteenth century, but more so in the fifteenth, when participation in political parties was typical in the tense Barcelona, and punishments for sorcery and witchcraft also increased.

The death penalty was applied very unevenly: very high in large urban concentrations and more scantily in rural areas. Indeed, given that it was accepted as being useful to appease the increase in tensions and violence, the number of death sentences tended to rise: in the first half of the fourteenth century, the average number of executions per year was 12.48, but this rose to 17.74 in the second half of the same century.

Understanding the death penalty as a tool for the common good, it is clear that its application could be explained as a benefit for society as a whole. Thus, executions not only had to be public but also participative, with the population taking part in jeering the guilty criminals. Indeed, the death penalty was a deterrent for anyone who might think about committing a similar crime, and restorative and cohesive for society as a whole.

The application of the death penalty had to reflect graduality and proportionality according to each case. The convict was dragged through the street among the shouts and jeers of the people, often tied up by the sergeants, who reminded the onlookers about the atrocious crimes committed. If the sentence included mutilation, this was applied along the way, until the gallows were reached, where the executioner did his work. Given the exemplary nature of capital punishment, it was thought convenient for the body to be displayed permanently. So, after having been executed in a central point in the town, the body was transferred to one of the external gallows, where it was left. This had to be prominent place, although if it were close to the populated places, there were complaints about unhealthy smells. Furthermore, it required attention for deterioration caused by bad weather or animals. That is why there was a tendency to close these

gallows off.

However, it could be that the seriousness of the crime had imposed higher punishments in the sentence. This could include the culprit being progressively quartered. In these cases, the fragments were normally displayed at significant points, including a fragment hung up where the crime had been committed, the others being in prominent places in the town or even the region, like the woman who murdered her husband and was cut up and the pieces exhibited in busy places in the Vallespir in 1457.

It was more usual for heretics and male homosexuals to end up on the pyre. The person was generally burnt alive with a large amount of firewood of different sizes to which more could be added to achieve full combustion, with little care of the remains that could be left. In some cases, the collaboration or conversion of the accused was compensated for by strangulation before they were put on the pyre.

In any case, one's personal status regulated how it was applied; the usual gallows could not be applied to privileged people. Nobles and barons had to be decapitated, the high bourgeoisie strangled and the clergy drowned or strangled. Jews and Muslims had to show their inferior condition. Generally, they died on the gallows hanging by their feet, in atrocious agony for two or three days while the people threw stones at them and poked them with canes.

The Jews who, in the climate of strong condemnation and aggressions against them, converted to Christianity remained under suspicion and were subjected to the Inquisition, and accusations of crypto-Judaism could lead them to the pyre. The Inquisition had arisen in the thirteenth century as an ecclesiastical tribunal to repress heresy, when the main fear was Catharism, and was very active throughout the territory, especially in Pyrenean areas like Castellbò or Roussillon, where it damaged wide baronial sectors. At the start of the fourteenth century, the Inquisition inflicted widespread damage on the movements of poverty, like Beghardism. However, further into this century it acted not against doctrines considered deviant but rather against activities related to the devil such as the witchcraft. With this orientation it caught Muslims accused of witchcraft. Curiously, the death sentences did not consider the evident contradiction of designating a person at the same time a Muslim and Christian heretic: *dictum Sarracenum fore ereticum*. The aim of the Inquisition to act against Jews came up against strong royal opposition, with the king wishing to retain them under his jurisdiction, for which this aim was orientated especially against converts, who were treated as heretics when their Jewish practices were uncovered. The death sentences handed down by the Inquisition were carried out on the pyre by the secular justice, which acted passively, limiting itself to applying

ecclesiastical sentences with express instructions to obey the inquisitor (*I hom que l'enqueridor féu cremar* ["a man that the inquisitor ordered burnt"])).

A new Inquisition depending on the king began to act in Catalonia in 1486. This was the first institution common to the crowns of Castile and Aragon and it linked the basis for royal power and social cohesion via Christian religion. From this position it would act decisively against converts accused of maintaining the Jewish faith. The exemplary penalty was considered so important that when the accused could not be detained, the execution was still held in effigy.

The fifteenth century had been especially tense in Catalonia. It saw a marked political division in Barcelona between the conservative party (*Biga*) and the renovators (*Busca*), agrarian revolts and a civil war centred on whether sovereignty belonged to the monarch or the estates. In this tense scenario, the death penalty played a major role, losing many of its legal guarantees and becoming, in contrast, subject to political criteria. However, its intimidatory use by those in power remained and its purpose of terrorising the population became even more accentuated given the weakening of the traditional guarantees.

This warlike context widened the social base of those condemned to death, with it being applied to political enemies, often leading bourgeois, either openly for maintaining a contrary posture or by accusing them of crimes considered as repugnant as male homosexuality. In contrast, throughout the Late Middle Ages, the ordinary justice mainly applied capital punishment to members of the lower social groups.

One way or another, the death penalty became omnipresent in late-medieval society. Consequently, it found its way into literary expressions, the stories recounted by troubadours and frivolous conversations shared with friends, which is why the influential moralist Francesc Eiximenis had to remark that it was not in good taste to bring up themes like this at the table.

There is a medieval legacy about the expressiveness and vision of the death penalty. After the Middle Ages, the landscape remained full of gallows between fragmented jurisdictions, while the population continued to participate in executions, which were still attractive enough to generate specific gallows literatures. Similarly, the Inquisition clearly strengthened its role in the sixteenth century. When Francisco Peña completed the manual that the Catalan inquisitor Nicolau Eimeric had written in the fourteenth century, he indicated explicitly that the death penalty did not aim to save the soul of the accused but rather to terrorise society. Finally, and at the same time, power—political and ideological—, continued to trust that its exercise of authority was legitimated through the popular backing received at

the foot of the gallows.

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Frontispiece image: Detail of the altarpiece devoted to Saint Catherine showing the martyrdom on the pyre of her colleagues. Master of Glorieta, Tarragona school, from the church of Mas de Bondia, currently in the Episcopal Museum of Vic, MEV 1051–1052.

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